HNN
8325-L-B
9/5

UY 1875
2 vols in one

all

Dav. T. Bagley
Dec 25th 1876

SPEECHES AND POEMS,

WITH THE

REPORT AND NOTES ON THE INDIAN PENAL CODE.

BY

LORD MACAULAY.

TWO VOLUMES IN ONE.

NEW YORK:
PUBLISHED BY HURD AND HOUGHTON.
Cambridge: The Riverside Press.
1875.

RIVERSIDE, CAMBRIDGE:
STEREOTYPED AND PRINTED BY
H. O. HOUGHTON AND COMPANY.

PUBLISHERS' ADVERTISEMENT.

A NEW impression of the Riverside Edition of Lord MACAULAY'S Speeches and Poems being required, we have made some important additions to each volume, in the shape of an Appendix, which may call for a brief explanation. In the body of the work, we have retained the text entire of his last authorized edition. To the first volume, however, we have added three speeches, which were withheld from his Lordship's collection, for reasons obvious enough in reference to the British public, but which do not apply as far as American readers are concerned. It happens, too, that the speeches in question, from their subjects, are of especial and permanent interest in the United States.

To the speech on the Washington Treaty we have added a synopsis of the proceedings in both Houses of Parliament consequent on the indirect attempt of Viscount Palmerston to censure Lord Ashburton for his management of the negotiations which led to it. The speeches on Post-office Espionage are equal, in their way, to the best parliamentary efforts of his Lordship, and are full of suggestions and warnings that may be instructive to our own legislators at a time when the spy system is flourishing so largely

and so disreputably in our revenue service. Spies are the fit servants of despotisms, but not of republics.

In settling the text of these speeches, we have borne in mind the severe strictures of Lord MACAULAY in the preface to his authorized edition. We have collated the report of the "Times" newspaper with the report of the Parliamentary Debates. The speech on the Washington Treaty is to a great extent the same in both of these reports; but the portion referring to the documents cited, with the comments on them, seems to be more succinctly and correctly given in Hansard. This version we have therefore followed. The first speech on Post-office Espionage we have taken chiefly from the "Times," with some variations adopted from the report in Hansard; and the second is the same, *verbatim*, in both reports.

In the second volume, we have given in an Appendix two admirable Poems of the author which do not appear in the English edition; with several extracts from letters of Miss Hannah More, of great interest, in relation to the intellectual habits of his boyhood and youth.

RIVERSIDE, *July*, 1874.

CONTENTS OF VOLUME I.

SPEECHES.

	PAGE
PARLIAMENTARY REFORM. (March 2, 1831)	19
" " (July 5, 1831)	40
" " (September 20, 1831)	59
" " (October 10, 1831)	78
" " (December 16, 1831)	92
ANATOMY BILL. (February 27, 1832)	112
PARLIAMENTARY REFORM. (February 28, 1832)	115
REPEAL OF THE UNION WITH IRELAND. (Feb. 6, 1833)	125
JEWISH DISABILITIES. (April 17, 1833)	144
GOVERNMENT OF INDIA. (July 10, 1833)	159
EDINBURGH ELECTION, 1839. (May 29, 1839)	206
CONFIDENCE IN THE MINISTRY OF LORD MELBOURNE. (January 29, 1840)	230
WAR WITH CHINA. (April 7, 1840)	257
COPYRIGHT. (February 5, 1841)	279
" (April 6, 1842)	299
THE PEOPLE'S CHARTER. (May 3, 1842)	310
THE GATES OF SOMNAUTH. (March 9, 1843)	326
THE STATE OF IRELAND. (February 19, 1844)	349
DISSENTERS' CHAPELS BILL. (June 6, 1844)	385
THE SUGAR DUTIES. (February 26, 1845)	404
MAYNOOTH. (April 14, 1845)	432
THE CHURCH OF IRELAND. (April 23, 1845)	451
THEOLOGICAL TESTS IN THE SCOTCH UNIVERSITIES. (July 9, 1845)	475
CORN LAWS. (December 2, 1845)	499

CONTENTS OF VOLUME II.

SPEECHES.

	PAGE
The Ten Hours Bill. (May 22, 1846)	7
The Literature of Britain. (November 4, 1846)	31
Education. (April 19, 1847)	42
Inaugural Speech at Glasgow College. (March 21, 1849)	72
Reelection to Parliament. (November 2, 1852)	83
Exclusion of Judges from the House of Commons. (June 1, 1853)	104

LAYS OF ANCIENT ROME.

Horatius	149
The Battle of the Lake Regillus	171
Virginia	201
The Prophecy of Capys	221

MISCELLANEOUS POEMS.

Epitaph on Henry Martyn	239
Lines to the Memory of Pitt	240
A Radical War Song	241
Ivry	244
The Battle of Moncontour	248
Songs of the Civil War	249
Sermon in a Churchyard	255
Translation from A. V. Arnault	258
Dies Iræ	260
The Marriage of Tirzah and Ahirad	262
The Country Clergyman's Trip to Cambridge	278

PAGE

Song 282
The Deliverance of Vienna 283
The Armada 289
Inscription on the Statue of Lord Wm. Bentinck 293
Epitaph on Sir Benjamin Heath Malkin . . 294
The Last Buccaneer 295
Epitaph on a Jacobite 296
Epitaph on Lord Metcalfe 297
Translation from Plautus 298
Valentine 300
Paraphrase of a Passage in the Chronicle of the Monk of St. Gall 302
Lines written on the Night of the 30th of July, 1847 304
Rosamond 308
Introductory Report upon the Indian Penal Code 313
Notes on the Indian Penal Code 329

INDEX 479

The Works of Lord Macaulay.

SPEECHES.

VOL. I.

TO

HENRY,

MARQUESS OF LANSDOWNE,

These Speeches are Dedicated

BY HIS GRATEFUL AND AFFECTIONATE FRIEND,

THOMAS BABINGTON MACAULAY.

PREFACE.

It was most reluctantly that I determined to suspend, during the last autumn, a work which is the business and the pleasure of my life, in order to prepare these Speeches for publication; and it is most reluctantly that I now give them to the world. Even if I estimated their oratorical merit much more highly than I do, I should not willingly have revived, in the quiet times in which we are so happy as to live, the memory of those fierce contentions in which too many years of my public life were passed. Many expressions which, when society was convulsed by political dissension, and when the foundations of government were shaking, were heard by an excited audience with sympathy and applause, may, now that the passions of all parties have subsided, be thought intemperate and acrimonious. It was especially painful to me to find myself under the necessity of recalling to my own recollection, and to the recollection of others, the keen encounters which took place between the late Sir Robert Peel and myself. Some parts of the conduct of that eminent man I must always think deserving of serious blame. But, on a calm review of his long and chequered public life, I acknowledge, with sincere pleasure, that his faults were

much more than redeemed by great virtues, great sacrifices, and great services. My political hostility to him was never in the smallest degree tainted by personal ill will. After his fall from power a cordial reconciliation took place between us: I admired the wisdom, the moderation, the disinterested patriotism, which he invariably showed during the last and best years of his life; I lamented his untimely death, as both a private and a public calamity; and I earnestly wished that the sharp words which had sometimes been exchanged between us might be forgotten.

Unhappily an act, for which the law affords no redress, but which I have no hesitation in pronouncing to be a gross injury to me and a gross fraud on the public, has compelled me to do what I should never have done willingly. A bookseller, named Vizetelly, who seems to aspire to that sort of distinction which Curll enjoyed a hundred and twenty years ago, thought fit, without asking my consent, without even giving me any notice, to announce an edition of my Speeches, and was not ashamed to tell the world in his advertisement that he published them by special license. When the book appeared, I found that it contained fifty-six speeches, said to have been delivered by me in the House of Commons. Of these speeches a few were reprinted from reports which I had corrected for the Mirror of Parliament or the Parliamentary Debates, and were therefore, with the exception of some errors of the pen and the press, correctly given. The rest bear scarcely the faintest resemblance to the speeches which I really

made. The substance of what I said is perpetually misrepresented. The connection of the arguments is altogether lost. Extravagant blunders are put into my mouth in almost every page. An editor who was not grossly ignorant would have perceived that no person to whom the House of Commons would listen could possibly have been guilty of such blunders. An editor who had the smallest regard for truth, or for the fame of the person whose speeches he had undertaken to publish, would have had recourse to the various sources of information which were readily accessible, and, by collating them, would have produced a book which would at least have contained no absolute nonsense. But I have unfortunately had an editor whose only object was to make a few pounds, and who was willing to sacrifice to that object my reputation and his own. He took the very worst report extant, compared it with no other report, removed no blemish however obvious or however ludicrous, gave to the world some hundreds of pages utterly contemptible both in matter and manner, and prefixed my name to them. The least that he should have done was to consult the files of The Times newspaper. I have frequently done so, when I have noticed in his book any passage more than ordinarily absurd ; and I have almost invariably found that, in The Times newspaper, my meaning had been correctly reported, though often in words different from those which I had used.

I could fill a volume with instances of the injustice with which I have been treated. But I will confine

myself to a single speech, the speech on the Dissenters' Chapels Bill. I have selected that speech, not because Mr. Vizetelly's version of that speech is worse than his versions of thirty or forty other speeches, but because I have before me a report of that speech which an honest and diligent editor would have thought it his first duty to consult. The report of which I speak was published by the Unitarian Dissenters, who were naturally desirous that there should be an accurate record of what had passed in a debate deeply interesting to them. It was not corrected by me: but it generally, though not uniformly, exhibits with fidelity the substance of what I said.

Mr. Vizetelly makes me say that the principle of our Statutes of Limitation was to be found in the legislation of the Mexicans and Peruvians. That is a matter about which, as I know nothing, I certainly said nothing. Neither in The Times nor in the Unitarian report is there anything about Mexico or Peru.

Mr. Vizetelly next makes me say that the principle of limitation is found "amongst the Pandects of the Benares." Did my editor believe that I uttered these words, and that the House of Commons listened patiently to them? If he did, what must be thought of his understanding? If he did not, was it the part of an honest man to publish such gibberish as mine? The most charitable supposition, which I therefore gladly adopt, is that Mr. Vizetelly saw nothing absurd in the expression which he has attributed to me. The Benares he probably supposes to be some Oriental nation. What

he supposes their Pandects to be I shall not presume to guess. If he had examined The Times, he would have found no trace of the passage. The reporter, probably, did not catch what I said, and, being more veracious than Mr. Vizetelly, did not choose to ascribe to me what I did not say. If Mr. Vizetelly had consulted the Unitarian report, he would have seen that I spoke of the Pundits of Benares; and he might, without any very long or costly research, have learned where Benares is, and what a Pundit is.

Mr. Vizetelly then represents me as giving the House of Commons some very extraordinary information about both the Calvinistic and the Arminian Methodists. He makes me say that Whitfield held and taught that the connection between Church and State was sinful. Whitfield never held or taught any such thing; nor was I so grossly ignorant of the life and character of that remarkable man as to impute to him a doctrine which he would have abhorred. Here again, both in The Times and in the Unitarian report, the substance of what I said is correctly given.

Mr. Vizetelly proceeds to put into my mouth a curious account of the polity of the Wesleyan Methodists. He makes me say that, after John Wesley's death, "the feeling in favour of the lay administration of the Sacrament became very strong and very general: a Conference was applied for, was constituted, and, after some discussion, it was determined that the request should be granted." Such folly could have been uttered only by a person profoundly ignorant of the history of

Methodism. Certainly nothing of the sort was ever uttered by me; and nothing of the sort will be found either in The Times or in the Unitarian report.

Mr. Vizetelly makes me say that the Great Charter recognises the principle of limitation, a thing which everybody who has read the Great Charter knows not to be true. He makes me give an utterly false history of Lord Nottingham's Occasional Conformity Bill. But I will not weary my readers by proceeding further. These samples will probably be thought sufficient. They all lie within a compass of seven or eight pages. It will be observed that all the faults which I have pointed out are grave faults of substance. Slighter faults of substance are numerous. As to faults of syntax and of style, hardly one sentence in a hundred is free from them.

I cannot permit myself to be exhibited, in this ridiculous and degrading manner, for the profit of an unprincipled man. I therefore unwillingly, and in mere self-defence, give this volume to the public. I have selected, to the best of my judgment, from among my Speeches, those which are the least unworthy to be preserved. Nine of them were corrected by me while they were still fresh in my memory, and appear almost word for word as they were spoken. They are the speech of the second of March, 1831, the speech of the twentieth of September, 1831, the speech of the tenth of October, 1831, the speech of the sixteenth of December, 1831, the speech on the Anatomy Bill, the speech on the India Bill, the speech on Serjeant Talfourd's

Copyright Bill, the speech on the Sugar Duties, and the speech on the Irish Church. The substance of the remaining speeches I have given with perfect ingenuousness. I have not made alterations for the purpose of saving my own reputation either for consistency or for foresight. I have not softened down the strong terms in which I formerly expressed opinions which time and thought may have modified; nor have I retouched my predictions in order to make them correspond with subsequent events. Had I represented myself as speaking in 1831, in 1840, or in 1845, as I should speak in 1853, I should have deprived my book of its chief value. This volume is now at least a strictly honest record of opinions and reasonings which were heard with favour by a large part of the Commons of England at some important conjunctures; and such a record, however low it may stand in the estimation of the literary critic, cannot but be of use to the historian.

I do not pretend to give with accuracy the diction of those speeches which I did not myself correct within a week after they were delivered. Many expressions, and a few paragraphs, linger in my memory. But the rest, including much that had been carefully premeditated, is irrecoverably lost. Nor have I, in this part of my task, derived much assistance from any report. My delivery is, I believe, too rapid. Very able shorthand writers have sometimes complained that they could not follow me, and have contented themselves with setting down the substance of what I said. As I am unable to recall the precise words which I used, I have done

my best to put my meaning into words which I might have used.

I have only, in conclusion, to beg that the readers of this Preface will pardon an egotism which a great wrong has made necessary, and which is quite as disagreeable to myself as it can be to them.

SPEECHES.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 2D OF MARCH, 1831

On Tuesday, the first of March, 1831, Lord John Russell moved the House of Commons for leave to bring in a Bill to amend the representation of the people in England and Wales. The discussion occupied seven nights. At length, on the morning of Thursday, the tenth of March, the motion was carried without a division. The following Speech was made on the second night of the debate: —

It is a circumstance, Sir, of happy augury for the motion before the House, that almost all those who have opposed it have declared themselves hostile on principle to Parliamentary Reform. Two Members, I think, have confessed that, though they disapprove of the plan now submitted to us, they are forced to admit the necessity of a change in the Representative system. Yet even those gentlemen have used, as far as I have observed, no arguments which would not apply as strongly to the most moderate change as to that which has been proposed by His Majesty's Government. I say, Sir, that I consider this as a circumstance of happy augury. For what I feared was, not the opposition of those who are averse to all Reform, but the disunion of reformers. I knew that, during three months, every reformer had been employed in conject-

uring what the plan of the Government would be. I knew that every reformer had imagined in his own mind a scheme differing doubtless in some points from that which my noble friend, the Paymaster of the Forces, has developed. I felt, therefore, great apprehension that one person would be dissatisfied with one part of the bill, that another person would be dissatisfied with another part, and that thus our whole strength would be wasted in internal dissensions. That apprehension is now at an end. I have seen with delight the perfect concord which prevails among all who deserve the name of reformers in this House; and I trust that I may consider it as an omen of the concord which will prevail among reformers throughout the country. I will not, Sir, at present express any opinion as to the details of the bill; but, having during the last twenty-four hours given the most diligent consideration to its general principles, I have no hesitation in pronouncing it a wise, noble, and comprehensive measure, skilfully framed for the healing of great distempers, for the securing at once of the public liberties and of the public repose, and for the reconciling and knitting together of all the orders of the State.

The honourable Baronet who has just sate down,* has told us, that the Ministers have attempted to unite two inconsistent principles in one abortive measure. Those were his very words. He thinks, if I understand him rightly, that we ought either to leave the representative system such as it is, or to make it perfectly symmetrical. I think, Sir, that the Ministers would have acted unwisely if they had taken either course. Their principle is plain, rational, and consistent. It is this, to admit the middle class to a large and direct

* Sir John Walsh.

share in the representation, without any violent shock to the institutions of our country. I understand those cheers: but surely the gentlemen who utter them will allow that the change which will be made in our institutions by this bill is far less violent than that which, according to the honourable Baronet, ought to be made if we make any Reform at all. I praise the Ministers for not attempting, at the present time, to make the representation uniform. I praise them for not effacing the old distinction between the towns and the counties, and for not assigning Members to districts, according to the American practice, by the Rule of Three. The Government has, in my opinion, done all that was necessary for the removal of a great practical evil, and no more than was necessary.

I consider this, Sir, as a practical question. I rest my opinion on no general theory of government. I distrust all general theories of government. I will not positively say, that there is any form of polity which may not, in some conceivable circumstances, be the best possible. I believe that there are societies in which every man may safely be admitted to vote. Gentlemen may cheer, but such is my opinion. I say, Sir, that there are countries in which the condition of the labouring classes is such that they may safely be entrusted with the right of electing Members of the Legislature. If the labourers of England were in that state in which I, from my soul, wish to see them; if employment were always plentiful, wages always high, food always cheap; if a large family were considered not as an encumbrance but as a blessing, the principal objections to Universal Suffrage would, I think, be removed. Universal Suffrage exists in the United States without producing any very frightful conse-

quences; and I do not believe, that the people of those States, or of any part of the world, are in any good quality naturally superior to our own countrymen. But, unhappily, the labouring classes in England, and in all old countries, are occasionally in a state of great distress. Some of the causes of this distress are, I fear, beyond the control of the Government. We know what effect distress produces, even on people more intelligent than the great body of the labouring classes can possibly be. We know that it makes even wise men irritable, unreasonable, credulous, eager for immediate relief, heedless of remote consequences. There is no quackery in medicine, religion, or politics, which may not impose even on a powerful mind, when that mind has been disordered by pain or fear. It is therefore no reflection on the poorer class of Englishmen, who are not, and who cannot in the nature of things be, highly educated, to say that distress produces on them its natural effects, those effects which it would produce on the Americans, or on any other people; that it blinds their judgment, that it inflames their passions, that it makes them prone to believe those who flatter them, and to distrust those who would serve them. For the sake, therefore, of the whole society; for the sake of the labouring classes themselves, I hold it to be clearly expedient that, in a country like this, the right of suffrage should depend on a pecuniary qualification.

But, Sir, every argument which would induce me to oppose Universal Suffrage induces me to support the plan which is now before us. I am opposed to Universal Suffrage, because I think that it would produce a destructive revolution. I support this plan, because I am sure that it is our best security against

a revolution. The noble Paymaster of the Forces hinted, delicately indeed and remotely, at this subject. He spoke of the danger of disappointing the expectations of the nation; and for this he was charged with threatening the House. Sir, in the year 1817, the late Lord Londonderry proposed a suspension of the Habeas Corpus Act. On that occasion he told the House that, unless the measures which he recommended were adopted, the public peace could not be preserved. Was he accused of threatening the House? Again, in the year 1819, he proposed the laws known by the name of the Six Acts. He then told the House that, unless the executive power were reinforced, all the institutions of the country would be overturned by popular violence. Was he then accused of threatening the House? Will any gentleman say that it is parliamentary and decorous to urge the danger arising from popular discontent as an argument for severity; but that it is unparliamentary and indecorous to urge that same danger as an argument for conciliation? I, Sir, do entertain great apprehension for the fate of my country. I do in my conscience believe that, unless the plan proposed, or some similar plan, be speedily adopted, great and terrible calamities will befall us. Entertaining this opinion, I think myself bound to state it, not as a threat, but as a reason. I support this bill because it will improve our institutions; but I support it also because it tends to preserve them. That we may exclude those whom it is necessary to exclude, we must admit those whom it may be safe to admit. At present we oppose the schemes of revolutionists with only one half, with only one quarter of our proper force. We say, and we say justly, that it is not by mere numbers, but by property and intelli-

gence, that the nation ought to be governed. Yet, saying this, we exclude from all share in the government great masses of property and intelligence, great numbers of those who are most interested in preserving tranquillity, and who know best how to preserve it. We do more. We drive over to the side of revolution those whom we shut out from power. Is this a time when the cause of law and order can spare one of its natural allies?

My noble friend, the Paymaster of the Forces, happily described the effect which some parts of our representative system would produce on the mind of a foreigner, who had heard much of our freedom and greatness. If, Sir, I wished to make such a foreigner clearly understand what I consider as the great defects of our system, I would conduct him through that immense city which lies to the north of Great Russell Street and Oxford Street, a city superior in size and in population to the capitals of many mighty kingdoms; and probably superior in opulence, intelligence, and general respectability, to any city in the world. I would conduct him through that interminable succession of streets and squares, all consisting of well built and well furnished houses. I would make him observe the brilliancy of the shops, and the crowd of well appointed equipages. I would show him that magnificent circle of palaces which surrounds the Regent's Park. I would tell him, that the rental of this district was far greater than that of the whole kingdom of Scotland, at the time of the Union. And then I would tell him, that this was an unrepresented district. It is needless to give any more instances. It is needless to speak of Manchester, Birmingham, Leeds, Sheffield, with no representation, or of Edinburgh and Glasgow with a

mock representation. If a property tax were now imposed on the principle that no person who had less than a hundred and fifty pounds a year should contribute, I should not be surprised to find that one half in number and value of the contributors had no votes at all; and it would, beyond all doubt, be found that one fiftieth part in number and value of the contributors had a larger share of the representation than the other forty-nine fiftieths. This is not government by property. It is government by certain detached portions and fragments of property, selected from the rest, and preferred to the rest, on no rational principle whatever.

To say that such a system is ancient is no defence. My honourable friend, the Member for the University of Oxford,[1] challenges us to show, that the Constitution was ever better than it is. Sir, we are legislators, not antiquaries. The question for us is, not whether the Constitution was better formerly, but whether we can make it better now. In fact, however, the system was not in ancient times by any means so absurd as it is in our age. One noble Lord[2] has to-night told us that the town of Aldborough, which he represents, was not larger in the time of Edward the First than it is at present. The line of its walls, he assures us, may still be traced. It is now built up to that line. He argues, therefore, that as the founders of our representative institutions gave Members to Aldborough when it was as small as it now is, those who would disfranchise it on account of its smallness have no right to say that they are recurring to the original principle of our representative institutions. But does the noble Lord remember the change which has taken place in the country

[1] Sir Robert Harry Inglis. [2] Lord Stormont.

during the last five centuries? Does he remember how much England has grown in population, while Aldborough has been standing still? Does he consider, that in the time of Edward the First the kingdom did not contain two millions of inhabitants? It now contains nearly fourteen millions. A hamlet of the present day would have been a town of some importance in the time of our early Parliaments. Aldborough may be absolutely as considerable a place as ever. But compared with the kingdom, it is much less considerable, by the noble Lord's own showing, than when it first elected burgesses. My honourable friend, the Member for the University of Oxford, has collected numerous instances of the tyranny which the kings and nobles anciently exercised, both over this House and over the electors. It is not strange that, in times when nothing was held sacred, the rights of the people, and of the representatives of the people, should not have been held sacred. The proceedings which my honourable friend has mentioned, no more prove that, by the ancient constitution of the realm, this House ought to be a tool of the king and of the aristocracy, than the Benevolences and the Shipmoney prove their own legality, or than those unjustifiable arrests, which took place long after the ratification of the great Charter, and even after the Petition of Right, prove that the subject was not anciently entitled to his personal liberty. We talk of the wisdom of our ancestors: and in one respect at least they were wiser than we. They legislated for their own times. They looked at the England which was before them. They did not think it necessary to give twice as many Members to York as they gave to London, because York had been the capital of Britain in the time of Constantius Chlorus;

and they would have been amazed indeed if they had foreseen, that a city of more than a hundred thousand inhabitants would be left without Representatives in the nineteenth century, merely because it stood on ground which, in the thirteenth century, had been occupied by a few huts. They framed a representative system, which, though not without defects and irregularities, was well adapted to the state of England in their time. But a great revolution took place. The character of the old corporations changed. New forms of property came into existence. New portions of society rose into importance. There were in our rural districts rich cultivators, who were not freeholders. There were in our capital rich traders, who were not liverymen. Towns shrank into villages. Villages swelled into cities larger than the London of the Plantagenets. Unhappily, while the natural growth of society went on, the artificial polity continued unchanged. The ancient form of the representation remained; and precisely because the form remained, the spirit departed. Then came that pressure almost to bursting, the new wine in the old bottles, the new society under the old institutions. It is now time for us to pay a decent, a rational, a manly reverence to our ancestors, not by superstitiously adhering to what they, in other circumstances, did, but by doing what they, in our circumstances, would have done. All history is full of revolutions, produced by causes similar to those which are now operating in England. A portion of the community which had been of no account expands and becomes strong. It demands a place in the system, suited, not to its former weakness, but to its present power. If this is granted, all is well. If this is refused, then comes the struggle between the young

energy of one class and the ancient privileges of another. Such was the struggle between the Plebeians and the Patricians of Rome. Such was the struggle of the Italian allies for admission to the full rights of Roman citizens. Such was the struggle of our North American colonies against the mother country. Such was the struggle which the Third Estate of France maintained against the aristocracy of birth. Such was the struggle which the Roman Catholics of Ireland maintained against the aristocracy of creed. Such is the struggle which the free people of colour in Jamaica are now maintaining against the aristocracy of skin. Such, finally, is the struggle which the middle classes in England are maintaining against an aristocracy of mere locality, against an aristocracy the principle of which is to invest a hundred drunken potwallopers in one place, or the owner of a ruined hovel in another, with powers which are withheld from cities renowned to the furthest ends of the earth, for the marvels of their wealth and of their industry.

But these great cities, says my honourable friend, the Member for the University of Oxford, are virtually, though not directly, represented. Are not the wishes of Manchester, he asks, as much consulted as those of any town which sends Members to Parliament? Now, Sir, I do not understand how a power which is salutary when exercised virtually can be noxious when exercised directly. If the wishes of Manchester have as much weight with us as they would have under a system which should give Representatives to Manchester, how can there be any danger in giving Representatives to Manchester? A virtual Representative is, I presume, a man who acts as a direct Representative

would act: for surely it would be absurd to say that a man virtually represents the people of Manchester, who is in the habit of saying No, when a man directly representing the people of Manchester would say Aye. The utmost that can be expected from virtual Representation is that it may be as good as direct Representation. If so, why not grant direct Representation to places which, as every body allows, ought, by some process or other, to be represented?

If it be said that there is an evil in change as change, I answer that there is also an evil in discontent as discontent. This, indeed, is the strongest part of our case. It is said that the system works well. I deny it. I deny that a system works well, which the people regard with aversion. We may say here, that it is a good system and a perfect system. But if any man were to say so to any six hundred and fifty-eight respectable farmers or shopkeepers, chosen by lot in any part of England, he would be hooted down, and laughed to scorn. Are these the feelings with which any part of the government ought to be regarded? Above all, are these the feelings with which the popular branch of the legislature ought to be regarded? It is almost as essential to the utility of a House of Commons, that it should possess the confidence of the people, as that it should deserve that confidence. Unfortunately, that which is in theory the popular part of our government, is in practice the unpopular part. Who wishes to dethrone the King? Who wishes to turn the Lords out of their House? Here and there a crazy radical, whom the boys in the street point at as he walks along. Who wishes to alter the constitution of this House? The whole people. It is natural that it should be so. The House of Commons is, in the language of Mr.

Burke, a check, not on the people, but for the people. While that check is efficient, there is no reason to fear that the King or the nobles will oppress the people. But if that check requires checking, how is it to be checked? If the salt shall lose its savour, wherewith shall we season it? The distrust with which the nation regards this House may be unjust. But what then? Can you remove that distrust? That it exists cannot be denied. That it is an evil cannot be denied. That it is an increasing evil cannot be denied. One gentleman tells us that it has been produced by the late events in France and Belgium; another, that it is the effect of seditious works which have lately been published. If this feeling be of origin so recent, I have read history to little purpose. Sir, this alarming discontent is not the growth of a day or of a year. If there be any symptoms by which it is possible to distinguish the chronic diseases of the body politic from its passing inflammations, all those symptoms exist in the present case. The taint has been gradually becoming more extensive and more malignant, through the whole lifetime of two generations. We have tried anodynes. We have tried cruel operations. What are we to try now? Who flatters himself that he can turn this feeling back? Does there remain any argument which escaped the comprehensive intellect of Mr. Burke, or the subtlety of Mr. Windham? Does there remain any species of coercion which was not tried by Mr. Pitt and by Lord Londonderry? We have had laws. We have had blood. New treasons have been created. The Press has been shackled. The Habeas Corpus Act has been suspended. Public meetings have been prohibited. The event has proved that these expedients were mere palliatives. You

are at the end of your palliatives. The evil remains. It is more formidable than ever. What is to be done?

Under such circumstances, a great plan of reconciliation, prepared by the Ministers of the Crown, has been brought before us in a manner which gives additional lustre to a noble name, inseparably associated during two centuries with the dearest liberties of the English people. I will not say, that this plan is in all its details precisely such as I might wish it to be; but it is founded on a great and a sound principle. It takes away a vast power from a few. It distributes that power through the great mass of the middle order. Every man, therefore, who thinks as I think is bound to stand firmly by ministers who are resolved to stand or fall with this measure. Were I one of them, I would sooner, infinitely sooner, fall with such a measure than stand by any other means that ever supported a Cabinet.

My honourable friend, the Member for the University of Oxford, tells us, that if we pass this law, England will soon be a republic. The reformed House of Commons will, according to him, before it has sate ten years, depose the King and expel the Lords from their House. Sir, if my honourable friend could prove this, he would have succeeded in bringing an argument for democracy, infinitely stronger than any that is to be found in the works of Paine. My honourable friend's proposition is in fact this; that our monarchical and aristocratical institutions have no hold on the public mind of England; that these institutions are regarded with aversion by a decided majority of the middle class. This, Sir, I say, is plainly deducible from his proposition; for he tells us that the Representatives of the middle class will inevitably abolish

royalty and nobility within ten years; and there is surely no reason to think that the Representatives of the middle class will be more inclined to a democratic revolution than their constituents. Now, Sir, if I were convinced that the great body of the middle class in England look with aversion on monarchy and aristocracy, I should be forced, much against my wil., to come to this conclusion, that monarchical and aristocratical institutions are unsuited to my country. Monarchy and aristocracy, valuable and useful as I think them, are still valuable and useful as means, and not as ends. The end of government is the happiness of the people: and I do not conceive that, in a country like this, the happiness of the people can be promoted by a form of government in which the middle classes place no confidence, and which exists only because the middle classes have no organ by which to make their sentiments known. But, Sir, I am fully convinced that the middle classes sincerely wish to uphold the Royal prerogatives and the constitutional rights of the Peers. What facts does my honourable friend produce in support of his opinion? One fact only; and that a fact which has absolutely nothing to do with the question. The effect of this Reform, he tells us, would be to make the House of Commons allpowerful. It was allpowerful once before, in the beginning of 1649. Then it cut off the head of the King, and abolished the House of Peers. Therefore, if it again has the supreme power, it will act in the same manner. Now, Sir, it was not the House of Commons that cut off the head of Charles the First; nor was the House of Commons then allpowerful. It had been greatly reduced in numbers by successive expulsions. It was under the absolute dominion of the army. A majority of the

House was willing to take the terms offered by the King. The soldiers turned out the majority; and the minority, not a sixth part of the whole House, passed those votes of which my honourable friend speaks, votes of which the middle classes disapproved then, and of which they disapprove still.

My honourable friend, and almost all the gentlemen who have taken the same side with him in this Debate, have dwelt much on the utility of close and rotten boroughs. It is by means of such boroughs, they tell us, that the ablest men have been introduced into Parliament. It is true that many distinguished persons have represented places of this description. But, Sir, we must judge of a form of government by its general tendency, not by happy accidents. Every form of government has its happy accidents. Despotism has its happy accidents. Yet we are not disposed to abolish all constitutional checks, to place an absolute master over us, and to take our chance whether he may be a Caligula or a Marcus Aurelius. In whatever way the House of Commons may be chosen, some able men will be chosen in that way who would not be chosen in any other way. If there were a law that the hundred tallest men in England should be Members of Parliament, there would probably be some able men among those who would come into the House by virtue of this law. If the hundred persons whose names stand first in the Alphabetical List of the Court Guide were made Members of Parliament, there would probably be able men among them. We read in ancient history, that a very able king was elected by the neighing of his horse: but we shall scarcely, I think, adopt this mode of election. In one of the most celebrated republics of antiquity, Athens, Senators and Magistrates were chosen

by lot; and sometimes the lot fell fortunately. Once, for example, Socrates was in office. A cruel and unjust proposition was made by a demagogue. Socrates resisted it at the hazard of his own life. There is no event in Grecian history more interesting than that memorable resistance. Yet who would have officers appointed by lot, because the accident of the lot may have given to a great and good man a power which he would probably never have attained in any other way? We must judge, as I said, by the general tendency of a system. No person can doubt that a House of Commons, chosen freely by the middle classes, will contain many very able men. I do not say, that precisely the same able men who would find their way into the present House of Commons will find their way into the reformed House: but that is not the question. No particular man is necessary to the State. We may depend on it that, if we provide the country with popular institutions, those institutions will provide it with great men.

There is another objection, which, I think, was first raised by the honourable and learned Member for Newport.[1] He tells us that the elective franchise is property; that to take it away from a man who has not been judicially convicted of malpractices is robbery; that no crime is proved against the voters in the closed boroughs; that no crime is even imputed to them in the preamble of the bill; and that therefore to disfranchise them without compensation would be an act of revolutionary tyranny. The honourable and learned gentleman has compared the conduct of the present Ministers to that of those odious tools of power, who, towards the close of the reign of Charles the Second,

[1] Mr. Horace Twiss.

seized the charters of the Whig Corporations. Now, there was another precedent, which I wonder that he did not recollect, both because it is much more nearly in point than that to which he referred, and because my noble friend, the Paymaster of the Forces, had previously alluded to it. If the elective franchise is property, if to disfranchise voters without a crime proved, or a compensation given, be robbery, was there ever such an act of robbery as the disfranchising of the Irish forty shilling freeholders? Was any pecuniary compensation given to them? Is it declared in the preamble of the bill which took away their franchise, that they had been convicted of any offence. Was any judicial inquiry instituted into their conduct? Were they even accused of any crime? Or if you say that it was a crime in the electors of Clare to vote for the honourable and learned gentleman who now represents the county of Waterford, was a Protestant freeholder in Louth to be punished for the crime of a Catholic freeholder in Clare? If the principle of the honourable and learned Member for Newport be sound, the franchise of the Irish peasant was property. That franchise the Ministers under whom the honourable and learned Member held office did not scruple to take away. Will he accuse those Ministers of robbery? If not, how can he bring such an accusation against their successors?

Every gentleman, I think, who has spoken from the other side of the House, has alluded to the opinions which some of His Majesty's Ministers formerly entertained on the subject of Reform. It would be officious in me, Sir, to undertake the defence of gentlemen who are so well able to defend themselves. I will only say that, in my opinion, the country will not think worse either of their capacity or of their patriotism, because

they have shown that they can profit by experience, because they have learned to see the folly of delaying inevitable changes. There are others who ought to have learned the same lesson. I say, Sir, that there are those who, I should have thought, must have had enough to last them all their lives of that humiliation which follows obstinate and boastful resistance to changes rendered necessary by the progress of society, and by the development of the human mind. Is it possible that those persons can wish again to occupy a position which can neither be defended or surrendered with honour? I well remember, Sir, a certain evening in the month of May, 1827. I had not then the honour of a seat in this House; but I was an attentive observer of its proceedings. The right honourable Baronet opposite,[1] of whom personally I desire to speak with that high respect which I feel for his talents and his character, but of whose public conduct I must speak with the sincerity required by my public duty, was then, as he is now, out of office. He had just resigned the seals of the Home Department, because he conceived that the recent ministerial arrangements had been too favourable to the Catholic claims. He rose to ask whether it was the intention of the new Cabinet to repeal the Test and Corporation Acts, and to reform the Parliament. He bound up, I well remember, those two questions together; and he declared that, if the Ministers should either attempt to repeal the Test and Corporation Acts, or bring forward a measure of Parliamentary Reform, he should think it his duty to oppose them to the utmost. Since that declaration was made four years have elapsed; and what is now the state of the three questions which then chiefly agitated the

[1] Sir Robert Peel.

minds of men? What is become of the Test and Corporation Acts? They are repealed. By whom? By the right honourable Baronet. What has become of the Catholic disabilities? They are removed. By whom? By the right honourable Baronet. The question of Parliamentary Reform is still behind. But signs, of which it is impossible to misconceive the import, do most clearly indicate that, unless that question also be speedily settled, property, and order, and all the institutions of this great monarchy, will be exposed to fearful peril. Is it possible that gentlemen long versed in high political affairs cannot read these signs? Is it possible that they can really believe that the Representative system of England, such as it now is, will last till the year 1860? If not, for what would they have us wait? Would they have us wait merely that we may show to all the world how little we have profited by our own recent experience? Would they have us wait, that we may once again hit the exact point where we can neither refuse with authority, nor concede with grace? Would they have us wait, that the numbers of the discontented party may become larger, its demands higher, its feelings more acrimonious, its organization more complete? Would they have us wait till the whole tragicomedy of 1827 has been acted over again; till they have been brought into office by a cry of "No Reform," to be reformers, as they were once before brought into office by a cry of "No Popery," to be emancipators? Have they obliterated from their minds — gladly, perhaps, would some among them obliterate from their minds — the transactions of that year? And have they forgotten all the transactions of the succeeding year? Have they forgotten how the spirit of liberty in Ireland, debarred from its natural outlet, found a

vent by forbidden passages? Have they forgotten how we were forced to indulge the Catholics in all the licence of rebels, merely because we chose to withhold from them the liberties of subjects? Do they wait for associations more formidable than that of the Corn Exchange, for contributions larger than the Rent, for agitators more violent than those who, three years ago, divided with the King and the Parliament the sovereignty of Ireland? Do they wait for that last and most dreadful paroxysm of popular rage, for that last and most cruel test of military fidelity? Let them wait, if their past experience shall induce them to think that any high honour or any exquisite pleasure is to be obtained by a policy like this. Let them wait, if this strange and fearful infatuation be indeed upon them, that they should not see with their eyes, or hear with their ears, or understand with their heart. But let us know our interest and our duty better. Turn where we may, within, around, the voice of great events is proclaiming to us, Reform, that you may preserve. Now, therefore, while every thing at home and abroad forebodes ruin to those who persist in a hopeless struggle against the spirit of the age; now, while the crash of the proudest throne of the continent is still resounding in our ears; now, while the roof of a British palace affords an ignominious shelter to the exiled heir of forty kings; now, while we see on every side ancient institutions subverted, and great societies dissolved; now, while the heart of England is still sound; now, while old feelings and old associations retain a power and a charm which may too soon pass away; now, in this your accepted time, now, in this your day of salvation, take counsel, not of prejudice, not of party spirit, not of the ignominious pride of a fatal consistency, but of

history, of reason, of the ages which are past, of the signs of this most portentous time. Pronounce in a manner worthy of the expectation with which this great debate has been anticipated, and of the long remembrance which it will leave behind. Renew the youth of the State. Save property, divided against itself. Save the multitude, endangered by its own ungovernable passions. Save the aristocracy, endangered by its own unpopular power. Save the greatest, and fairest, and most highly civilised community that ever existed, from calamities which may in a few days sweep away all the rich heritage of so many ages of wisdom and glory. The danger is terrible. The time is short. If this bill should be rejected, I pray to God that none of those who concur in rejecting it may ever remember their votes with unavailing remorse, amidst the wreck of laws, the confusion of ranks, the spoliation of property, and the dissolution of social order.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 5TH OF JULY, 1831.

On Tuesday, the fourth of July, 1831, Lord John Russell moved the second reading of the Bill to amend the representation of the people in England and Wales. Sir John Walsh, member for Sudbury, moved, as an amendment, that the bill should be read that day six months. After a discussion, which lasted three nights, the amendment was rejected by 367 votes to 231, and the original motion was carried. The following Speech was made on the second night of the debate: —

Nobody, Sir, who has watched the course of the debate can have failed to observe that the gentlemen who oppose this bill have chiefly relied on a preliminary objection, which it is necessary to clear away before we proceed to examine whether the proposed changes in our representative system would or would not be improvements. The elective franchise, we are told, is private property. It belongs to this freeman, to that potwalloper, to the owner of this house, to the owner of that old wall; and you have no more right to take it away without compensation than to confiscate the dividends of a fundholder or the rents of a landholder.

Now, Sir, I admit that, if this objection be well founded, it is decisive against the plan of Reform which has been submitted to us. If the franchise be really private property, we have no more right to take members away from Gatton because Gatton is small, and to give them to Manchester because Manchester is large, than Cyrus, in the old story, had to take away the big

coat from the little boy and to put it on the big boy. In no case, and under no pretext however specious, would I take away from any member of the community any thing which is of the nature of property, without giving him full compensation. But I deny that the elective franchise is of the nature of property; and I believe that, on this point, I have with me all reason, all precedent, and all authority. This at least is certain, that, if disfranchisement really be robbery, the representative system which now exists is founded on robbery. How was the franchise in the English counties fixed? By the act of Henry the Sixth, which disfranchised tens of thousands of electors who had not forty shilling freeholds. Was that robbery? How was the franchise in the Irish counties fixed? By the Act of George the Fourth which disfranchised tens of thousands of electors who had not ten pound freeholds. Was that robbery? Or was the great parliamentary reform made by Oliver Cromwell ever designated as robbery, even by those who most abhorred his name? Every body knows that the unsparing manner in which he disfranchised small boroughs was emulously applauded, by royalists, who hated him for having pulled down one dynasty, and by republicans, who hated him for having founded another. Take Sir Harry Vane and Lord Clarendon, both wise men, both I believe, in the main, honest men, but as much opposed to each other in politics as wise and honest men could be. Both detested Oliver; yet both approved of Oliver's plan of parliamentary reform. They grieved only that so salutary a change should have been made by an usurper. Vane wished it to have been made by the Rump; Clarendon wished it to be made by the King. Clarendon's language on this subject is most remarkable. For he was

no rash innovator. The bias of his mind was altogether on the side of antiquity and prescription. Yet he describes that great disfranchisement of boroughs as an improvement fit to be made in a more warrantable method and at a better time. The words were prophetic. This is that more warrantable method. This is that better time. What Cromwell attempted to effect by an usurped authority, in a country which had lately been convulsed by civil war, and which was with difficulty kept in a state of sullen tranquillity by military force, it has fallen to our lot to accomplish in profound peace, and under the rule of a prince whose title is unquestioned, whose office is reverenced, and whose person is beloved. It is easy to conceive with what scorn and astonishment Clarendon would have heard it said that the reform which seemed to him so obviously just and reasonable that he praised it, even when made by a regicide, could not, without the grossest iniquity, be made even by a lawful King and a lawful Parliament.

Sir, in the name of the institution of property, of that great institution, for the sake of which, chiefly, all other institutions exist, of that great institution to which we owe all knowledge, all commerce, all industry, all civilization, all that makes us to differ from the tattooed savages of the Pacific Ocean, I protest against the pernicious practice of ascribing to that which is not property the sanctity which belongs to property alone. If, in order to save political abuses from that fate with which they are threatened by the public hatred, you claim for them the immunities of property, you must expect that property will be regarded with some portion of the hatred which is excited by political abuses. You bind up two very differ-

ent things, in the hope that they may stand together. Take heed that they do not fall together. You tell the people that it is as unjust to disfranchise a great lord's nomination borough as to confiscate his estate. Take heed that you do not succeed in convincing weak and ignorant minds that there is no more injustice in confiscating his estate than in disfranchising his borough. That this is no imaginary danger, your own speeches in this debate abundantly prove. You begin by ascribing to the franchises of Old Sarum the sacredness of property; and you end, naturally enough, I must own, by treating the rights of property as lightly as I should be inclined to treat the franchises of Old Sarum. When you are reminded that you voted, only two years ago, for disfranchising great numbers of freeholders in Ireland, and when you are asked how, on the principles which you now profess, you can justify that vote, you answer very coolly, "No doubt that was confiscation. No doubt we took away from the peasants of Munster and Connaught, without giving them a farthing of compensation, that which was as much their property as their pigs or their frieze coats. But we did it for the public good. We were pressed by a great State necessity." Sir, if that be an answer, we too may plead that we too have the public good in view, and that we are pressed by a great State necessity. But I shall resort to no such plea. It fills me with indignation and alarm to hear grave men avow what they own to be downright robbery, and justify that robbery on the ground of political convenience. No, Sir, there is one way, and only one way, in which those gentlemen who voted for the disfranchising Act of 1829 can clear their fame. Either they have no defence, or their defence must be this; that the elective

franchise is not of the nature of property, and that therefore disfranchisement is not spoliation.

Having disposed, as I think, of the question of right, I come to the question of expediency. I listened, Sir, with much interest and pleasure to a noble Lord who spoke for the first time in this debate.[1] But I must own that he did not succeed in convincing me that there is any real ground for the fears by which he is tormented. He gave us a history of France since the Restoration. He told us of the violent ebbs and flows of public feeling in that country. He told us that the revolutionary party was fast rising to ascendency while M. de Cazes was minister; that then came a violent reaction in favour of the monarchy and the priesthood; that then the revolutionary party again became dominant; that there had been a change of dynasty; and that the Chamber of Peers had ceased to be a hereditary body. He then predicted, if I understood him rightly, that, if we pass this bill, we shall suffer all that France has suffered; that we shall have violent contests between extreme parties, a revolution, and an abolition of the House of Lords. I might, perhaps, dispute the accuracy of some parts of the noble Lord's narrative. But I deny that his narrative, accurate or inaccurate, is relevant. I deny that there is any analogy between the state of France and the state of England. I deny that there is here any great party which answers either to the revolutionary or to the counter-revolutionary party in France. I most emphatically deny that there is any resemblance in the character, and that there is likely to be any resemblance in the fate, of the two Houses of Peers. I always regarded the hereditary Chamber established by Lewis the

[1] Lord Porchester.

Eighteenth as an institution which could not last. It was not in harmony with the state of property: it was not in harmony with the public feeling: it had neither the strength which is derived from wealth, nor the strength which is derived from prescription. It was despised as plebeian by the ancient nobility. It was hated as patrician by the democrats. It belonged neither to the old France nor to the new France. It was a mere exotic transplanted from our island. Here it had struck its roots deep, and, having stood during ages, was still green and vigorous. But it languished in the foreign soil and the foreign air, and was blown down by the first storm. It will be no such easy task to uproot the aristocracy of England.

With much more force, at least with much more plausibility, the noble Lord and several other members on the other side of the House have argued against the proposed Reform on the ground that the existing system has worked well. How great a country, they say, is ours! how eminent in wealth and knowledge, in arts and arms! how much admired! how much envied! Is it possible to believe that we have become what we are under a bad government? And, if we have a good government, why alter it? Now, Sir, I am very far from denying that England is great, and prosperous, and highly civilised. I am equally far from denying, that she owes much of her greatness, of her prosperity, and of her civilisation to her form of government. But is no nation ever to reform its institutions because it has made great progress under those institutions? Why, Sir, the progress is the very thing which makes the reform absolutely necessary. The Czar Peter, we all know, did much for Russia. But for his rude genius and energy, that country might have still been utterly

barbarous. Yet would it be reasonable to say, that the Russian people ought always, to the end of time, to be despotically governed, because the Czar Peter was a despot? Let us remember that the government and the society act and react on each other. Sometimes the government is in advance of the society, and hurries the society forward. So urged, the society gains on the government, comes up with the government, outstrips the government, and begins to insist that the government shall make more speed. If the government is wise, it will yield to that just and natural demand. The great cause of revolutions is this, that while nations move onward, constitutions stand still. The peculiar happiness of England is that here, through many generations, the constitution has moved onward with the nation. Gentlemen have told us, that the most illustrious foreigners have, in every age, spoken with admiration of the English constitution. Comines, they say, in the fifteenth century, extolled the English constitution as the best in the world. Montesquieu, in the eighteenth century, extolled it as the best in the world. And would it not be madness in us to throw away what such men thought the most precious of all our blessings? But was the constitution which Montesquieu praised the same with the constitution which Comines praised? No, Sir; if it had been so, Montesquieu never would have praised it. For how was it possible that a polity which exactly suited the subjects of Edward the Fourth should have exactly suited the subjects of George the Second? The English have, it is true, long been a great and a happy people. But they have been great and happy because their history has been the history of a succession of timely reforms. The Great Charter, the assembling

of the first House of Commons, the Petition of Right, the Declaration of Right, the Bill which is now on our table, what are they all but steps in one great progress? To every one of those steps the same objections might have been made which we have heard to-night, "You are better off than your neighbours are. You are better off than your fathers were. Why can you not leave well alone?"

How copiously might a Jacobite orator have harangued on this topic in the Convention of 1688! "Why make a change of dynasty? Why trouble ourselves to devise new securities for our laws and liberties? See what a nation we are. See how population and wealth have increased since what you call the good old times of Queen Elizabeth. You cannot deny that the country has been more prosperous under the kings of the House of Stuart than under any of their predecessors. Keep that House, then, and be thankful." Just such is the reasoning of the opponents of this bill. They tell us that we are an ungrateful people, and that, under institutions from which we have derived inestimable benefits, we are more discontented than the slaves of the Dey of Tripoli. Sir, if we had been slaves of the Dey of Tripoli, we should have been too much sunk in intellectual and moral degradation to be capable of the rational and manly discontent of freemen. It is precisely because our institutions are so good that we are not perfectly contented with them; for they have educated us into a capacity for enjoying still better institutions. That the English Government has generally been in advance of almost all other governments is true. But it is equally true that the English nation is, and has during some time been, in advance of the English Govern-

ment. One plain proof of this is, that nothing is so ill made in our island as the laws. In all those things which depend on the intelligence, the knowledge, the industry, the energy of individuals, or of voluntary combinations of individuals, this country stands pre-eminent among all the countries of the world, ancient and modern. But in those things which it belongs to the State to direct, we have no such claim to superiority. Our fields are cultivated with a skill unknown elsewhere, with a skill which has extorted rich harvests from moors and morasses. Our houses are filled with conveniences which the kings of former times might have envied. Our bridges, our canals, our roads, our modes of communication, fill every stranger with wonder. Nowhere are manufactures carried to such perfection. Nowhere is so vast a mass of mechanical power collected. Nowhere does man exercise such a dominion over matter. These are the works of the nation. Compare them with the works of the rulers of the nation. Look at the criminal law, at the civil law, at the modes of conveying lands, at the modes of conducting actions. It is by these things that we must judge of our legislators, just as we judge of our manufacturers by the cotton goods and the cutlery which they produce, just as we judge of our engineers by the suspension bridges, the tunnels, the steam carriages which they construct. Is, then, the machinery by which justice is administered framed with the same exquisite skill which is found in other kinds of machinery? Can there be a stronger contrast than that which exists between the beauty, the completeness, the speed, the precision with which every process is performed in our factories, and the awkwardness, the rudeness, the slowness, the uncertainty of the apparatus

by which offences are punished and rights vindicated? Look at that series of penal statutes, the most bloody and the most inefficient in the world, at the puerile fictions which make every declaration and every plea unintelligible both to plaintiff and defendant, at the mummery of fines and recoveries, at the chaos of precedents, at the bottomless pit of Chancery. Surely we see the barbarism of the thirteenth century and the highest civilisation of the nineteenth century side by side; and we see that the barbarism belongs to the government and the civilisation to the people.

This is a state of things which cannot last. If it be not terminated by wisdom, it will be terminated by violence. A time has come at which it is not merely desirable, but indispensable to the public safety, that the government should be brought into harmony with the people; and it is because this bill seems to me likely to bring the government into harmony with the people, that I feel it to be my duty to give my hearty support to His Majesty's Ministers.

We have been told, indeed, that this is not the plan of Reform which the nation asked for. Be it so. But you cannot deny that it is the plan of Reform which the nation has accepted. That, though differing in many respects from what was asked, it has been accepted with transports of joy and gratitude, is a decisive proof of the wisdom of timely concession. Never in the history of the world was there so signal an example of that true statesmanship, which, at once animating and gently curbing the honest enthusiasm of millions, guides it safely and steadily to a happy goal. It is not strange, that when men are refused what is reasonable, they should demand what is unreasonable. It is not strange that, when they find that their opinion is con-

temned and neglected by the Legislature, they should lend a too favourable ear to worthless agitators. We have seen how discontent may be produced. We have seen, too, how it may be appeased. We have seen that the true source of the power of demagogues is the obstinacy of rulers, and that a liberal Government makes a conservative people. Early in the last session, the First Minister of the Crown declared that he would consent to no Reform; that he thought our representative system, just as it stood, the masterpiece of human wisdom; that, if he had to make it anew, he would make it such as it was, with all its represented ruins and all its unrepresented cities. What followed? Every thing was tumult and panic. The funds fell. The streets were insecure. Men's hearts failed them for fear. We began to move our property into German investments and American investments. Such was the state of the public mind, that it was not thought safe to let the Sovereign pass from his palace to the Guildhall of his capital. What part of his kingdom is there in which His Majesty now needs any other guard than the affection of his loving subjects? There are, indeed, still malecontents; and they may be divided into two classes, the friends of corruption and the sowers of sedition. It is natural that all who directly profit by abuses, and all who profit by the disaffection which abuses excite, should be leagued together against a bill which, by making the government pure, will make the nation loyal. There is, and always has been, a real alliance between the two extreme parties in this country. They play into each other's hands. They live by each other. Neither would have any influence if the other were taken away. The demagogue would have no audience but for the indignation excited

among the multitude by the insolence of the enemies of Reform; and the last hope of the enemies of Reform is in the uneasiness excited among all who have any thing to lose by the ravings of the demagogue. I see, and glad I am to see, that the nation perfectly understands and justly appreciates this coalition between those who hate all liberty and those who hate all order. England has spoken, and spoken out. From her most opulent seaports, from her manufacturing towns, from her capital and its gigantic suburbs, from almost every one of her counties, has gone forth a voice, answering in no doubtful or faltering accent to that truly royal voice which appealed on the twenty-second of last April to the sense of the nation.

So clearly, indeed, has the sense of the nation been expressed, that scarcely any person now ventures to declare himself hostile to all Reform. We are, it seems, a House of Reformers. Those very gentlemen, who, a few months ago, were vehement against all change, now own that some change may be proper, may be necessary. They assure us, that their opposition is directed, not against Parliamentary Reform, but against the particular plan which is now before us, and that a Tory Ministry would devise a much better plan. I cannot but think that these tactics are unskilful. I cannot but think that, when our opponents defended the existing system in every part, they occupied a stronger position than at present. As my noble friend, the Paymaster-General, said, they have committed an error resembling that of the Scotch army at Dunbar. They have left the high ground from which we might have had some difficulty in dislodging them. They have come down to low ground, where they are at our mercy. Surely, as Cromwell said, surely the Lord hath delivered them into our hand.

For, Sir, it is impossible not to perceive that almost every argument which they have urged against this Reform Bill may be urged with equal force, or with greater force, against any Reform Bill which they can themselves bring in.

First take, what, indeed, are not arguments, but wretched substitutes for arguments, those vague terms of reproach which have been so largely employed, here and elsewhere, by our opponents; revolutionary, anarchical, traitorous, and so forth. It will, I apprehend, hardly be disputed that these epithets can be just as easily applied to one Reform Bill as to another.

But, you say, intimidation has been used to promote the passing of this bill; and it would be disgraceful, and of evil example, that Parliament should yield to intimidation. But surely, if that argument be of any force against the present bill, it will be of tenfold force against any Reform Bill proposed by you. For this bill is the work of men who are Reformers from conscientious conviction, of men, some of whom were Reformers when Reformer was a name of reproach, of men, all of whom were Reformers before the nation had begun to demand Reform in imperative and menacing tones. But you are notoriously Reformers merely from fear. You are Reformers under duress. If a concession is to be made to the public importunity, you can hardly deny that it will be made with more grace and dignity by Lord Grey than by you.

Then you complain of the anomalies of the bill. One county, you say, will have twelve members; and another county, which is larger and more populous, will have only ten. Some towns, which are to have only one member, are more considerable than other towns which are to have two. Do those who make

these objections, objections which by the bye will be more in place when the bill is in committee, seriously mean to say that a Tory Reform Bill will leave no anomalies in the representative system? For my own part, I trouble myself not at all about anomalies, considered merely as anomalies. I would not take the trouble of lifting up my hand to get rid of an anomaly that was not also a grievance. But if gentlemen have such a horror of anomalies, it is strange that they should so long have persisted in upholding a system made up of anomalies far greater than any that can be found in this bill (a cry of *no!*). Yes; far greater. Answer me, if you can; but do not interrupt me. On this point, indeed, it is much easier to interrupt than to answer. For who can answer plain arithmetical demonstration? Under the present system, Manchester, with two hundred thousand inhabitants, has no members. Old Sarum, with no inhabitants, has two members. Find me such an anomaly in the schedules which are now on the table. But is it possible that you, that Tories, can seriously mean to adopt the only plan which can remove all anomalies from the representative system? Are you prepared to have, after every decennial census, a new distribution of members among electoral districts? Is your plan of Reform that which Mr. Canning satirised as the most crazy of all the projects of the disciples of Tom Paine? Do you really mean

> "That each fair burgh, numerically free,
> Shall choose its members by the rule of three?"

If not, let us hear no more of the anomalies of the Reform Bill.

But your great objection to this bill is that it will not be final. I ask you whether you think that any Reform

Bill which you can frame will be final? For my part I do believe that the settlement proposed by His Majesty's Ministers will be final, in the only sense in which a wise man ever uses that word. I believe that it will last during that time for which alone we ought at present to think of legislating. Another generation may find in the new representative system defects such as we find in the old representative system. Civilisation will proceed. Wealth will increase. Industry and trade will find out new seats. The same causes which have turned so many villages into great towns, which have turned so many thousands of square miles of fir and heath into cornfields and orchards, will continue to operate. Who can say that a hundred years hence there may not be, on the shore of some desolate and silent bay in the Hebrides, another Liverpool, with its docks and warehouses and endless forests of masts? Who can say that the huge chimneys of another Manchester may not rise in the wilds of Connemara? For our children we do not pretend to legislate. All that we can do for them is to leave to them a memorable example of the manner in which great reforms ought to be made. In the only sense, therefore, in which a statesman ought to say that any thing is final, I pronounce this bill final. But in what sense will your bill be final? Suppose that you could defeat the Ministers, that you could displace them, that you could form a government, that you could obtain a majority in this House, what course would events take? There is no difficulty in foreseeing the stages of the rapid progress downward. First we should have a mock reform; a Bassietlaw reform; a reform worthy of those politicians who, when a delinquent borough had forfeited its franchise, and when it was necessary for them to determine

what they would do with two seats in Parliament, deliberately gave those seats, not to Manchester or Birmingham or Leeds, not to Lancashire or Staffordshire or Devonshire, but to a constituent body studiously selected because it was not large, and because it was not independent; a reform worthy of those politicians who, only twelve months ago, refused to give members to the three greatest manufacturing towns in the world. We should have a reform which would produce all the evils and none of the benefits of change, which would take away from the representative system the foundation of prescription, and yet would not substitute the surer foundation of reason and public good. The people would be at once emboldened and exasperated; emboldened because they would see that they had frightened the Tories into making a pretence of reforming the Parliament; and exasperated because they would see that the Tory Reform was a mere pretence. Then would come agitation, tumult, political associations, libels, inflammatory harangues. Coercion would only aggravate the evil. This is no age, this is no country, for the war of power against opinion. Those Jacobin mountebanks, whom this bill would at once send back to their native obscurity, would rise into fearful importance. The law would be sometimes braved and sometimes evaded. In short, England would soon be what Ireland was at the beginning of 1829. Then, at length, as in 1829, would come the late and vain repentance. Then, Sir, amidst the generous cheers of the Whigs, who will be again occupying their old seats on your left hand, and amidst the indignant murmurs of those staunch Tories who are now again trusting to be again betrayed, the right honourable Baronet opposite will rise from the Treasury

Bench to propose that bill on which the hearts of the people are set. But will that bill be then accepted with the delight and thankfulness with which it was received last March? Remember Ireland. Remember, how, in that country, concessions too long delayed were at last received. That great boon which in 1801, in 1813, in 1825, would have won the hearts of millions, given too late, and given from fear, only produced new clamours and new dangers. Is not one such lesson enough for one generation? A noble Lord opposite told us not to expect that this bill will have a conciliatory effect. Recollect, he said, how the French aristocracy surrendered their privileges in 1789, and how that surrender was requited. Recollect that Day of Sacrifices which was afterwards called the Day of Dupes. Sir, that day was afterwards called the Day of Dupes, not because it was the Day of Sacrifices, but because it was the Day of Sacrifices too long deferred. It was because the French aristocracy resisted reform in 1783, that they were unable to resist revolution in 1789. It was because they clung too long to odious exemptions and distinctions, that they were at last unable to save their lands, their mansions, their heads. They would not endure Turgot: and they had to endure Robespierre.

I am far indeed from wishing that the Members of this House should be influenced by fear in the bad and unworthy sense of that word. But there is an honest and honourable fear, which well becomes those who are entrusted with the dearest interests of a great community; and to that fear I am not ashamed to make an earnest appeal. It is very well to talk of confronting sedition boldly, and of enforcing the law against those who would disturb the public peace. No doubt

a tumult caused by local and temporary irritation ought to be suppressed with promptitude and vigour. Such disturbances, for example, as those which Lord George Gordon raised in 1780, should be instantly put down with the strong hand. But woe to the Government which cannot distinguish between a nation and a mob! Woe to the Government which thinks that a great, a steady, a long continued movement of the public mind is to be stopped like a street riot! This error has been twice fatal to the great House of Bourbon. God be praised, our rulers have been wiser. The golden opportunity, which, if once suffered to escape, might never have been retrieved, has been seized. Nothing, I firmly believe, can now prevent the passing of this noble law, this second Bill of Rights. [*Murmurs.*] Yes, I call it, and the nation calls it, and our posterity will long call it, this second Bill of Rights, this Greater Charter of the Liberties of England. The year 1831 will, I trust, exhibit the first example of the manner in which it behoves a free and enlightened people to purify their polity from old and deeply seated abuses, without bloodshed, without violence, without rapine, all points freely debated, all the forms of senatorial deliberation punctiliously observed, industry and trade not for a moment interrupted, the authority of law not for a moment suspended. These are things of which we may well be proud. These are things which swell the heart up with a good hope for the destinies of mankind. I cannot but anticipate a long series of happy years; of years during which a parental Government will be firmly supported by a grateful nation; of years during which war, if war should be inevitable, will find us an united people; of years preëminently distinguished by the progress of arts, by the improvement

of laws, by the augmentation of the public resources, by the diminution of the public burdens, by all those victories of peace, in which, far more than in any military successes, consists the true felicity of states, and the true glory of statesmen. With such hopes, Sir, and such feelings, I give my cordial assent to the second reading of a bill which I consider as in itself deserving of the warmest approbation, and as indispensably necessary, in the present temper of the public mind, to the repose of the country and to the stability of the throne.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 20TH OF SEPTEMBER, 1831.

On Monday, the nineteenth of September, 1831, the Bill to amend the representation of the people in England and Wales was read a third time, at an early hour and in a thin house, without any debate. But on the question whether the Bill should pass a discussion arose which lasted three nights. On the morning of the twenty-second of September the House divided; and the Bill passed by 345 votes to 236. The following Speech was made on the second night of the debate: —

It is not without great diffidence, Sir, that I rise to address you on a subject which has been nearly exhausted. Indeed, I should not have risen had I not thought that, though the arguments on this question are for the most part old, our situation at present is in a great measure new. At length the Reform Bill, having passed without vital injury through all the dangers which threatened it, during a long and minute discussion, from the attacks of its enemies and from the dissensions of its friends, comes before us for our final ratification; altered, indeed, in some of its details for the better and in some for the worse, but in its great principles still the same bill which, on the first of March, was proposed to the late Parliament, — the same bill which was received with joy and gratitude by the whole nation, — the same bill which, in an instant, took away the power of interested agitators, and united in one firm body all the sects of sincere Reformers, — the same bill

which, at the late election, received the approbation of almost every great constituent boby in the empire. With a confidence which discussion has only strengthened, with an assured hope of great public blessings if the wish of the nation shall be gratified, with a deep and solemn apprehension of great public calamities if that wish shall be disappointed, I, for the last time, give my most hearty assent to this noble law, destined, I trust, to be the parent of many good laws, and, through a long series of years, to secure the repose and promote the prosperity of my country.

When I say that I expect this bill to promote the prosperity of the country, I by no means intend to encourage those chimerical hopes which the honourable and learned Member for Rye,[1] who has so much distinguished himself in this debate, has imputed to the Reformers. The people, he says, are for the bill, because they expect that it will immediately relieve all their distresses. Sir, I believe that very few of that large and respectable class which we are now about to admit to a share of political power entertain any such absurd expectation. They expect relief, I doubt not; and I doubt not that they will find it: but sudden relief they are far too wise to expect. The bill, says the honourable and learned gentleman, is good for nothing: it is merely theoretical: it removes no real and sensible evil: it will not give the people more work, or higher wages, or cheaper bread. Undoubtedly, Sir, the bill will not immediately give all those things to the people. But will any institutions give them all those things? Do the present institutions of the country secure to them those advantages? If we are to pronounce the Reform Bill good for nothing, because it

[1] Mr. Pemberton.

will not at once raise the nation from distress to prosperity, what are we to say of that system under which the nation has been of late sinking from prosperity into distress? The defect is not in the Reform Bill, but in the very nature of government. On the physical condition of the great body of the people, government acts not as a specific, but as an alterative. Its operation is powerful, indeed, and certain, but gradual and indirect. The business of government is not directly to make the people rich, but to protect them in making themselves rich; and a government which attempts more than this is precisely the government which is likely to perform less. Governments do not and cannot support the people. We have no miraculous powers: we have not the rod of the Hebrew lawgiver: we cannot rain down bread on the multitude from Heaven: we cannot smite the rock and give them to drink. We can give them only freedom to employ their industry to the best advantage, and security in the enjoyment of what their industry has acquired. These advantages it is our duty to give at the smallest possible cost. The diligence and forethought of individuals will thus have fair play; and it is only by the diligence and forethought of individuals that the community can become prosperous. I am not aware that His Majesty's Ministers, or any of the supporters of this bill, have encouraged the people to hope, that Reform will remove distress, in any other way than by this indirect process. By this indirect process the bill will, I feel assured, conduce to the national prosperity. If it had been passed fifteen years ago, it would have saved us from our present embarrassments. If we pass it now, it will gradually extricate us from them. It will secure to us a House of Commons, which, by preserving peace, by

destroying monopolies, by taking away unnecessary public burdens, by judiciously distributing necessary public burdens, will, in the progress of time, greatly improve our condition. This it will do; and those who blame it for not doing more blame it for not doing what no Constitution, no code of laws, ever did or ever will do; what no legislator, who was not an ignorant and unprincipled quack, ever ventured to promise.

But chimerical as are the hopes which the honourable and learned Member for Rye imputes to the people, they are not, I think, more chimerical than the fears which he has himself avowed. Indeed, those very gentlemen who are constantly telling us that we are taking a leap in the dark, that we pay no attention to the lessons of experience, that we are mere theorists, are themselves the despisers of experience, are themselves the mere theorists. They are terrified at the thought of admitting into Parliament members elected by ten pound householders. They have formed in their own imaginations a most frightful idea of these members. My honourable and learned friend, the Member for Cockermouth,[1] is certain that these members will take every opportunity of promoting the interests of the journeyman in opposition to those of the capitalist. The honourable and learned Member for Rye is convinced that none but persons who have strong local connections, will ever be returned for such constituent bodies. My honourable friend, the Member for Thetford,[2] tells us, that none but mob orators, men who are willing to pay the basest court to the multitude, will have any chance. Other speakers have gone still further, and have described to us the future borough members as so many Marats and Santerres, low, fierce,

[1] Sir James Scarlett. [2] Mr. Alexander Baring.

desperate men, who will turn the House into a bear garden, and who will try to turn the monarchy into a republic, mere agitators, without honour, without sense, without education, without the feelings or the manners of gentlemen. Whenever, during the course of the fatiguing discussions by which we have been so long occupied, there has been a cry of "question," or a noise at the bar, the orator who has been interrupted has remarked, that such proceedings will be quite in place in the Reformed Parliament, but that we ought to remember that the House of Commons is still an assembly of gentlemen. This, I say, is to set up mere theory, or rather mere prejudice, in opposition to long and ample experience. Are the gentlemen who talk thus ignorant that we have already the means of judging what kind of men the ten pound householders will send up to Parliament? Are they ignorant that there are even now large towns with very popular franchises, with franchises even more democratic than those which will be bestowed by the present bill? Ought they not, on their own principles, to look at the results of the experiments which have already been made, instead of predicting frightful calamities at random? How do the facts which are before us agree with their theories? Nottingham is a city with a franchise even more democratic than that which this bill establishes. Does Nottingham send hither mere vulgar demagogues? It returns two distinguished men, one an advocate, the other a soldier, both unconnected with the town. Every man paying scot and lot has a vote at Leicester. This is a lower franchise than the ten pound franchise. Do we find that the Members for Leicester are the mere tools of the journeymen? I was at Leicester during the contest of 1826; and I recollect that the

suffrages of the scot and lot voters were pretty equally divided between two candidates, neither of them connected with the place, neither of them a slave of the mob, one a Tory Baronet from Derbyshire, the other a most respectable and excellent friend of mine, connected with the manufacturing interest, and also an inhabitant of Derbyshire. Look at Norwich. Look at Northampton, with a franchise more democratic than even the scot and lot franchise. Northampton formerly returned Mr. Perceval, and now returns gentlemen of high respectability, gentlemen who have a great stake in the prosperity and tranquillity of the country. Look at the metropolitan districts. This is an *à fortiori* case. Nay it is — the expression, I fear, is awkward — an *à fortiori* case at two removes. The ten pound householders of the metropolis are persons in a lower station of life than the ten pound householders of other towns. The scot and lot franchise in the metropolis is again lower than the ten pound franchise. Yet have Westminster and Southwark been in the habit of sending us members of whom we have had reason to be ashamed, of whom we have not had reason to be proud? I do not say that the inhabitants of Westminster and Southwark have always expressed their political sentiments with proper moderation. That is not the question. The question is this: what kind of men have they elected? The very principle of all Representative government is, that men who do not judge well of public affairs may be quite competent to choose others who will judge better. Whom, then, have Westminster and Southwark sent us during the last fifty years, years full of great events, years of intense popular excitement? Take any one of those nomination boroughs, the patrons of which have con-

scientiously endeavoured to send fit men into this House. Compare the Members for that borough with the Members for Westminster and Southwark, and you will have no doubt to which the preference is due. It is needless to mention Mr. Fox, Mr. Sheridan, Mr. Tierney, Sir Samuel Romilly. Yet I must pause at the name of Sir Samuel Romilly. Was he a mob orator? Was he a servile flatterer of the multitude? Sir, if he had any fault, if there was any blemish on that most serene and spotless character, that character which every public man, and especially every professional man engaged in politics, ought to propose to himself as a model, it was this, that he despised popularity too much and too visibly. The honourable Member for Thetford told us that the honourable and learned Member for Rye, with all his talents, would have no chance of a seat in the Reformed Parliament, for want of the qualifications which succeed on the hustings. Did Sir Samuel Romilly ever appear on the hustings of Westminster? He never solicited one vote; he never showed himself to the electors, till he had been returned at the head of the poll. Even then, as I have heard from one of his nearest relatives, it was with reluctance that he submitted to be chaired. He shrank from being made a show. He loved the people, and he served them; but Coriolanus himself was not less fit to canvass them. I will mention one other name, that of a man of whom I have only a childish recollection, but who must have been intimately known to many of those who hear me, Mr. Henry Thornton. He was a man eminently upright, honourable, and religious, a man of strong understanding, a man of great political knowledge; but, in all respects, the very reverse of a mob orator. He was a

man who would not have yielded to what he considered as unreasonable clamour, I will not say to save his seat, but to save his life. Yet he continued to represent Southwark, Parliament after Parliament, for many years. Such has been the conduct of the scot and lot voters of the metropolis; and there is clearly less reason to expect democratic violence from ten pound householders than from scot and lot householders; and from ten pound householders in the country towns than from ten pound householders in London. Experience, I say, therefore, is on our side; and on the side of our opponents nothing but mere conjecture and mere assertion.

Sir, when this bill was first brought forward, I supported it, not only on the ground of its intrinsic merits, but, also, because I was convinced that to reject it would be a course full of danger. I believe that the danger of that course is in no respect diminished. I believe, on the contrary, that it is increased. We are told that there is a reaction. The warmth of the public feeling, it seems, has abated. In this story both the sections of the party opposed to Reform are agreed; those who hate Reform, because it will remove abuses, and those who hate it, because it will avert anarchy; those who wish to see the electing body controlled by ejectments, and those who wish to see it controlled by riots. They must now, I think, be undeceived. They must have already discovered that the surest way to prevent a reaction is to talk about it, and that the enthusiasm of the people is at once rekindled by any indiscreet mention of their seeming coolness. This, Sir, is not the first reaction which the sagacity of the Opposition has discovered since the Reform Bill was brought in. Every gentleman who sat in the late

Parliament, every gentleman who, during the sitting of the late Parliament, paid attention to political speeches and publications, must remember how, for some time before the debate on General Gascoyne's motion, and during the debate on that motion, and down to the very day of the dissolution, we were told that public feeling had cooled. The right honourable Baronet, the Member for Tamworth, told us so. All the literary organs of the Opposition, from the Quarterly Review down to the Morning Post, told us so. All the Members of the Opposition with whom we conversed in private told us so. I have in my eye a noble friend of mine, who assured me, on the very night which preceded the dissolution, that the people had ceased to be zealous for the Ministerial plan, and that we were more likely to lose than to gain by the elections. The appeal was made to the people; and what was the result? What sign of a reaction appeared among the Livery of London? What sign of a reaction did the honourable Baronet who now represents Okehampton find among the freeholders of Cornwall?[1] How was it with the large represented towns? Had Liverpool cooled? or Bristol? or Leicester? or Coventry? or Nottingham? or Norwich? How was it with the great seats of manufacturing industry, Yorkshire, and Lancashire, and Staffordshire, and Warwickshire, and Cheshire? How was it with the agricultural districts, Northumberland and Cumberland, Leicestershire and Lincolnshire, Kent and Essex, Oxfordshire. Hampshire, Somersetshire, Dorsetshire, Devonshire? How was it with the strongholds of aristocratical influence, Newark, and Stamford, and Hertford, and St. Alban's? Never did any people display, within the limits pre-

[1] Sir Richard Vyvyan.

scribed by law, so generous a fervour, or so steadfast a determination, as that very people whose apparent languor had just before inspired the enemies of Reform with a delusive hope.

Such was the end of the reaction of April; and, if that lesson shall not profit those to whom it was given, such and yet more signal will be the end of the reaction of September. The two cases are strictly analogous. In both cases the people were eager when they believed the bill to be in danger, and quiet when they believed it to be in security. During the three or four weeks which followed the promulgation of the Ministerial plan, all was joy, and gratitude, and vigorous exertion. Everywhere meetings were held: everywhere resolutions were passed: from every quarter were sent up petitions to this House, and addresses to the Throne: and then the nation, having given vent to its first feelings of delight, having clearly and strongly expressed its opinions, having seen the principle of the bill adopted by the House of Commons on the second reading, became composed, and awaited the result with a tranquillity which the Opposition mistook for indifference. All at once the aspect of affairs changed. General Gascoyne's amendment was carried: the bill was again in danger: exertions were again necessary. Then was it well seen whether the calmness of the public mind was any indication of indifference. The depth and sincerity of the prevailing sentiments were proved, not by mere talking, but by actions, by votes, by sacrifices. Intimidation was defied: expenses were rejected: old ties were broken: the people struggled manfully: they triumphed gloriously: they placed the bill in perfect security, as far as this House was concerned; and they returned to their repose. They are now, as they were

on the eve of General Gascoyne's motion, awaiting the issue of the deliberations of Parliament, without any indecent show of violence, but with anxious interest and immovable resolution. And because they are not exhibiting that noisy and rapturous enthusiasm which is in its own nature transient, — because they are not as much excited as on the day when the plan of the Government was first made known to them, or on the day when the late Parliament was dissolved, — because they do not go on week after week, hallooing, and holding meetings, and marching about with flags, and making bonfires, and illuminating their houses,—we are again told that there is a reaction. To such a degree can men be deceived by their wishes, in spite of their own recent experience. Sir, there is no reaction ; and there will be no reaction. All that has been said on this subject convinces me only that those who are now, for the second time, raising this cry, know nothing of the crisis in which they are called on to act, or of the nation which they aspire to govern. All their opinions respecting this bill are founded on one great error. They imagine that the public feeling concerning Reform is a mere whim which sprang up suddenly out of nothing, and which will as suddenly vanish into nothing. They, therefore, confidently expect a reaction. They are always looking out for a reaction. Everything that they see, or that they hear, they construe into a sign of the approach of this reaction. They resemble the man in Horace, who lies on the bank of the river, expecting that it will every moment pass by and leave him a clear passage, not knowing the depth and abundance of the fountain which feeds it, not knowing that it flows, and will flow on for ever. They have found out a hundred ingenious devices by which they deceive themselves.

Sometimes they tell us that the public feeling about Reform was caused by the events which took place at Paris about fourteen months ago ; though every observant and impartial man knows, that the excitement which the late French Revolution produced in England was not the cause but the effect of that progress which liberal opinions had made amongst us. Sometimes they tell us that we should not have been troubled with any complaints on the subject of the Representation, if the House of Commons had agreed to a certain motion, made in the Session of 1830, for inquiry into the causes of the public distress. I remember nothing about that motion, except that it gave rise to the dullest debate ever known ; and the country, I am firmly convinced, cared not one straw about it. But is it not strange that men of real ability can deceive themselves so grossly, as to think that any change in the government of a foreign nation, or the rejection of any single motion, however popular, could all at once raise up a great, rich, enlightened nation, against its ancient institutions? Could such small drops have produced an overflowing, if the vessel had not already been filled to the very brim? These explanations are incredible, and if they were credible, would be anything but consolatory. If it were really true that the English people had taken a sudden aversion to a representative system which they had always loved and admired, because a single division in Parliament had gone against their wishes, or because, in a foreign country, in circumstances bearing not the faintest analogy to those in which we are placed, a change of dynasty had happened, what hope could we have for such a nation of madmen? How could we expect that the present form of government, or any form of government, would be durable amongst them?

Sir, the public feeling concerning Reform is of no such recent origin, and springs from no such frivolous causes. Its first faint commencement may be traced far, very far, back in our history. During seventy years that feeling has had a great influence on the public mind. Through the first thirty years of the reign of George the Third, it was gradually increasing. The great leaders of the two parties in the State were favourable to Reform. Plans of reform were supported by large and most respectable minorities in the House of Commons. The French Revolution, filling the higher and middle classes with an extreme dread of change, and the war calling away the public attention from internal to external politics, threw the question back; but the people never lost sight of it. Peace came, and they were at leisure to think of domestic improvements. Distress came, and they suspected, as was natural, that their distress was the effect of unfaithful stewardship and unskilful legislation. An opinion favourable to Parliamentary Reform grew up rapidly, and became strong among the middle classes. But one tie, one strong tie, still bound those classes to the Tory party. I mean the Catholic Question. It is impossible to deny that, on that subject, a large proportion, majority, I fear, of the middle class of Englishmen, conscientiously held opinions opposed to those which I have always entertained, and were disposed to sacrifice every other consideration to what they regarded as a religious duty. Thus the Catholic Question hid, so to speak, the question of Parliamentary Reform. The feeling in favour of Parliamentary Reform grew, but it grew in the shade. Every man, I think, must have observed the progress of that feeling in his own social circle. But few Reform meetings were held, and few

petitions in favour of Reform presented. At length the Catholics were emancipated; the solitary link of sympathy which attached the people to the Tories was broken; the cry of "No Popery" could no longer be opposed to the cry of "Reform." That which, in the opinion of the two great parties in Parliament, and of a vast portion of the community, had been the first question, suddenly disappeared; and the question of Parliamentary Reform took the first place. Then was put forth all the strength which had been growing in silence and obscurity. Then it appeared that Reform had on its side a coalition of interests and opinions unprecedented in our history, all the liberality and intelligence which had supported the Catholic claims, and all the clamour which had opposed them.

This, I believe, is the true history of that public feeling on the subject of Reform which has been ascribed to causes quite inadequate to the production of such an effect. If ever there was in the history of mankind a national sentiment which was the very opposite of a caprice, with which accident had nothing to do, which was produced by the slow, steady, certain progress of the human mind, it is the sentiment of the English people on the subject of Reform. Accidental circumstances may have brought that feeling to maturity in a particular year, or a particular month. That point I will not dispute; for it is not worth disputing. But those accidental circumstances have brought on Reform, only as the circumstance that, at a particular time, indulgences were offered for sale in a particular town in Saxony, brought on the great separation from the Church of Rome. In both cases the public mind was prepared to move on the slightest impulse.

Thinking thus of the public opinion concerning Re-

form, being convinced that this opinion is the mature product of time and of discussion, I expect no reaction. I no more expect to see my countrymen again content with the mere semblance of a Representation, than to see them again drowning witches or burning heretics, trying causes by red hot ploughshares, or offering up human sacrifices to wicker idols. I no more expect a reaction in favour of Gatton and Old Sarum, than a reaction in favour of Thor and Odin. I should think such a reaction almost as much a miracle, as that the shadow should go back upon the dial. Revolutions produced by violence are often followed by reactions; the victories of reason once gained, are gained for eternity.

In fact, if there be, in the present aspect of public affairs, any sign peculiarly full of evil omen to the opponents of Reform, it is that very calmness of the public mind on which they found their expectation of success. They think that it is the calmness of indifference. It is the calmness of confident hope; and in proportion to the confidence of hope will be the bitterness of disappointment. Disappointment, indeed, I do not anticipate. That we are certain of success in this House is now acknowledged; and our opponents have, in consequence, during the whole of this Session, and particularly during the present debate, addressed their arguments and exhortations rather to the Lords than to the assembly of which they are themselves Members. Their principal argument has always been, that the Bill will destroy the peerage. The honourable and learned Member for Rye has, in plain terms, called on the Barons of England to save their order from democratic encroachments, by rejecting this measure. All these arguments, all these appeals, being interpreted,

mean this: "Proclaim to your countrymen that you have no common interests with them, no common sympathies with them; that you can be powerful only by their weakness, and exalted only by their degradation; that the corruption which disgusts them, and the oppression against which their spirit rises up, are indispensable to your authority; that the freedom and purity of election are incompatible with the very existence of your House. Give them clearly to understand that your power rests, not, as they have hitherto imagined, on their rational convictions, or on their habitual veneration, or on your own great property, but on a system fertile of political evils, fertile also of low iniquities of which ordinary justice takes cognisance. Bind up, in inseparable union, the privileges of your estate with the grievances of ours: resolve to stand or fall with abuses visibly marked out for destruction: tell the people that they are attacking you in attacking the three holes in the wall, and that they shall never get rid of the three holes in the wall till they have got rid of you; that a hereditary peerage, and a representative assembly, can coexist only in name, and that, if they will have a real House of Peers, they must be content with a mock House of Commons." This, I say, is the advice given to the Lords by those who call themselves the friends of aristocracy. That advice so pernicious will not be followed, I am well assured; yet I cannot but listen to it with uneasiness. I cannot but wonder that it should proceed from the lips of men who are constantly lecturing us on the duty of consulting history and experience. Have they never heard what effects counsels like their own, when too faithfully followed, have produced? Have they never visited that neighbouring country, which still presents to the eye, even

of a passing stranger, the signs of a great dissolution and renovation of society? Have they never walked by those stately mansions, now sinking into decay, and portioned out into lodging rooms, which line the silent streets of the Faubourg St. Germain? Have they never seen the ruins of those castles whose terraces and gardens overhang the Loire? Have they never heard that from those magnificent hotels, from those ancient castles, an aristocracy as splendid, as brave, as proud, as accomplished as ever Europe saw, was driven forth to exile and beggary, to implore the charity of hostile Governments and hostile creeds, to cut wood in the back settlements of America, or to teach French in the schoolrooms of London? And why were those haughty nobles destroyed with that utter destruction? Why were they scattered over the face of the earth, their titles abolished, their escutcheons defaced, their parks wasted, their palaces dismantled, their heritage given to strangers? Because they had no sympathy with the people, no discernment of the signs of their time; because, in the pride and narrowness of their hearts, they called those whose warnings might have saved them theorists and speculators; because they refused all concession till the time had arrived when no concession would avail. I have no apprehension that such a fate awaits the nobles of England. I draw no parallel between our aristocracy and that of France. Those who represent the peerage as a class whose power is incompatible with the just influence of the people in the State, draw that parallel, and not I. They do all in their power to place the Lords and Commons of England in that position with respect to each other in which the French gentry stood with respect to the Third Estate. But I am convinced that

these advisers will not succeed. We see, with pride and delight, among the friends of the people, the Talbots, the Cavendishes, the princely house of Howard. Foremost among those who have entitled themselves, by their exertions in this House, to the lasting gratitude of their countrymen, we see the descendants of Marlborough, of Russell, and of Derby. I hope, and firmly believe, that the Lords will see what their interest and their honour require. I hope, and firmly believe, that they will act in such a manner as to entitle themselves to the esteem and affection of the people. But if not, let not the enemies of Reform imagine that their reign is straightway to recommence, or that they have obtained anything more than a short and uneasy respite. We are bound to respect the constitutional rights of the Peers; but we are bound also not to forget our own. We, too, have our privileges; we, too, are an estate of the realm. A House of Commons strong in the love and confidence of the people, a House of Commons which has nothing to fear from a dissolution, is something in the government. Some persons, I well know, indulge a hope that the rejection of the bill will at once restore the domination of that party which fled from power last November, leaving everything abroad and everything at home in confusion; leaving the European system, which it had built up at a vast cost of blood and treasure, falling to pieces in every direction; leaving the dynasties which it had restored, hastening into exile; leaving the nations which it had joined together, breaking away from each other; leaving the fundholders in dismay; leaving the peasantry in insurrection; leaving the most fertile counties lighted up with the fires of incendiaries; leaving the capital in such a state, that a royal procession could not safely

pass through it. Dark and terrible, beyond any season within my remembrance of political affairs, was the day of their flight. Far darker and far more terrible will be the day of their return. They will return in opposition to the whole British nation, united as it was never before united on any internal question; united as firmly as when the Armada was sailing up the Channel; united as firmly as when Bonaparte pitched his camp on the cliffs of Boulogne. They will return pledged to defend evils which the people are resolved to destroy. They will return to a situation in which they can stand only by crushing and trampling down public opinion, and from which, if they fall, they may, in their fall, drag down with them the whole frame of society. Against such evils, should such evils appear to threaten the country, it will be our privilege and our duty to warn our gracious and beloved Sovereign. It will be our privilege and our duty to convey the wishes of a loyal people to the throne of a patriot king. At such a crisis the proper place for the House of Commons is in front of the nation; and in that place this House will assuredly be found. Whatever prejudice or weakness may do elsewhere to ruin the empire, here, I trust, will not be wanting the wisdom, the virtue, and the energy that may save it.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 10TH OF OCTOBER 1831.

On the morning of Saturday, the eighth of October, 1831, the House of Lords, by a majority of 199 to 158, rejected the Reform Bill. On the Monday following, Lord Ebrington, Member for Devonshire, moved the following resolution in the House of Commons: —

"That while this House deeply laments the present fate of a bill for amending the representation of the people in England and Wales, in favour of which the opinion of the country stands unequivocally pronounced, and which has been matured by discussions the most anxious and laborious, it feels itself called upon to reassert its firm adherence to the principle and leading provisions of that great measure, and to express its unabated confidence in the integrity, perseverance, and ability of those Ministers, who, in introducing and conducting it, have so well consulted the best interests of the country."

The resolution was carried by 329 votes to 198. The following Speech was made early in the debate: —

I DOUBT, Sir, whether any person who had merely heard the speech of the right honourable Member for the University of Cambridge[1] would have been able to conjecture what the question is which we are discussing, and what the occasion on which we are assembled. For myself, I can with perfect sincerity declare that never in the whole course of my life did I feel my mind oppressed by so deep and solemn a sense of re-

[1] Mr. Goulburn.

sponsibility as at the present moment. I firmly believe that the country is now in danger of calamities greater than ever threatened it, from domestic misgovernment or from foreign hostility. The danger is no less than this, that there may be a complete alienation of the people from their rulers. To soothe the public mind, to reconcile the people to the delay, the short delay, which must intervene before their wishes can be legitimately gratified, and in the mean time to avert civil discord, and to uphold the authority of law, these are, I conceive, the objects of my noble friend, the Member for Devonshire: these ought, at the present crisis, to be the objects of every honest Englishman. They are objects which will assuredly be attained, if we rise to this great occasion, if we take our stand in the place which the Constitution has assigned to us, if we employ, with becoming firmness and dignity, the powers which belong to us as trustees of the nation, and as advisers of the Throne.

Sir, the Resolution of my noble friend consists of two parts. He calls upon us to declare our undiminished attachment to the principles of the Reform Bill, and also our undiminished confidence in His Majesty's Ministers. I consider these two declarations as identical. The question of Reform is, in my opinion, of such paramount importance, that, approving the principles of the Ministerial Bill, I must think the Ministers who have brought that bill forward, although I may differ from them on some minor points, entitled to the strongest support of Parliament. The right honourable gentleman, the Member for the University of Cambridge, has attempted to divert the course of the debate to questions comparatively unimportant. He has said much about the coal duty, about the candle duty,

about the budget of the present Chancellor of the Exchequer. On most of the points to which he has referred, it would be easy for me, were I so inclined, to defend the Ministers; and, where I could not defend them, I should find it easy to recriminate on those who preceded them. The right honourable Member for the University of Cambridge has taunted the Ministers with the defeat which their plan respecting the timber trade sustained in the last Parliament. I might, perhaps, at a more convenient season, be tempted to inquire whether that defeat was more disgraceful to them or to their predecessors. I might, perhaps, be tempted to ask the right honourable gentleman whether, if he had not been treated, while in office, with more fairness than he has shown while in opposition, it would have been in his power to carry his best bill, the Beer Bill? He has accused the Ministers of bringing forward financial propositions, and then withdrawing those propositions. Did not he bring forward, during the Session of 1830, a plan respecting the sugar duties? And was not that plan withdrawn? But, Sir, this is mere trifling. I will not be seduced from the matter in hand by the right honourable gentleman's example. At the present moment I can see only one question in the State, the question of Reform; only two parties, the friends of the Reform Bill and its enemies.

It is not my intention, Sir, again to discuss the merits of the Reform Bill. The principle of that bill received the approbation of the late House of Commons after a discussion of ten nights, and the bill, as it now stands, after a long and most laborious investigation, passed the present House of Commons by a majority which was nearly half as large again as the minority. This was little more than a fortnight ago. Nothing

has since occurred to change our opinion. The justice of the case is unaltered. The public enthusiasm is undiminished. Old Sarum has grown no larger. Manchester has grown no smaller. In addressing this House, therefore, I am entitled to assume that the bill is in itself a good bill. If so, ought we to abandon it merely because the Lords have rejected it? We ought to respect the lawful privileges of their House; but we ought also to assert our own. We are constitutionally as independent of their Lordships as their Lordships are of us. We have precisely as good a right to adhere to our opinion as they have to dissent from it. In speaking of their decision, I will attempt to follow that example of moderation which was so judiciously set by my noble friend, the Member for Devonshire. I will only say that I do not think that they are more competent to form a correct judgment on a political question than we are. It is certain that, on all the most important points on which the two Houses have for a long time past differed, the Lords have at length come over to the opinion of the Commons. I am therefore entitled to say, that, with respect to all those points, the Peers themselves being judges, the House of Commons was in the right and the House of Lords in the wrong. It was thus with respect to the Slave-trade: it was thus with respect to Catholic Emancipation: it was thus with several other important questions. I, therefore, cannot think that we ought, on the present occasion, to surrender our judgment to those who have acknowledged that, on former occasions of the same kind, we have judged more correctly than they.

Then again, Sir, I cannot forget how the majority and the minority in this House were composed; I cannot forget that the majority contained almost all those

gentlemen who are returned by large bodies of electors. It is, I believe, no exaggeration to say, that there were single Members of the majority who had more constituents than the whole minority put together. I speak advisedly and seriously. I believe that the number of freeholders of Yorkshire exceeds that of all the electors who return the Opposition. I cannot with propriety comment here on any reports which may have been circulated concerning the majority and minority in the House of Lords. I may, however, mention these notoriously historical facts: that during the last forty years the powers of the executive Government have been, almost without intermission, exercised by a party opposed to Reform; and that a very great number of Peers have been created, and all the present Bishops raised to the bench, during those years. On this question, therefore, while I feel more than usual respect for the judgment of the House of Commons, I feel less than usual respect for the judgment of the House of Lords. Our decision is the decision of the nation; the decision of their Lordships can scarcely be considered as the decision even of that class from which the Peers are generally selected, and of which they may be considered as virtual representatives, the great landed gentlemen of England. It seems to me clear, therefore, that we ought, notwithstanding what has passed in the other House, to adhere to our opinion concerning the Reform Bill.

The next question is this; ought we to make a formal declaration that we adhere to our opinion? I think that we ought to make such a declaration; and I am sure that we cannot make it in more temperate or more constitutional terms than those which my noble friend asks us to adopt. I support the Resolution

which he has proposed with all my heart and soul: I support it as a friend to Reform; but I support it still more as a friend to law, to property, to social order. No observant and unprejudiced man can look forward without great alarm to the effects which the recent decision of the Lords may possibly produce. I do not predict, I do not expect, open, armed insurrection. What I apprehend is this, that the people may engage in a silent, but extensive and persevering war against the law. What I apprehend is, that England may exhibit the same spectacle which Ireland exhibited three years ago, — agitators stronger than the magistrate, associations stronger than the law, a Government powerful enough to be hated, and not powerful enough to be feared, a people bent on indemnifying themselves by illegal excesses for the want of legal privileges. I fear, that we may before long see the tribunals defied, the tax-gatherer resisted, public credit shaken, property insecure, the whole frame of society hastening to dissolution. It is easy to say, "Be bold: be firm: defy intimidation: let the law have its course: the law is strong enough to put down the seditious." Sir, we have heard all this blustering before; and we know in what it ended. It is the blustering of little men whose lot has fallen on a great crisis. Xerxes scourging the winds, Canute commanding the waves to recede from his footstool, were but types of the folly of those who apply the maxims of the Quarter Sessions to the great convulsions of society. The law has no eyes: the law has no hands: the law is nothing, nothing but a piece of paper printed by the King's printer, with the King's arms at the top, till public opinion breathes the breath of life into the dead letter. We found this in Ireland. The Catholic Association bearded the Government.

The Government resolved to put down the Association. An indictment was brought against my honourable and learned friend, the Member for Kerry. The Grand Jury threw it out. Parliament met. The Lords Commissioners came down with a speech recommending the suppression of the self-constituted legislature of Dublin. A bill was brought in: it passed both Houses by large majorities: it received the Royal assent. And what effect did it produce? Exactly as much as that old Act of Queen Elizabeth, still unrepealed, by which it is provided that every man who, without a special exemption, shall eat meat on Fridays and Saturdays, shall pay a fine of twenty shillings or go to prison for a month. Not only was the Association not destroyed: its power was not for one day suspended: it flourished and waxed strong under the law which had been made for the purpose of annihilating it. The elections of 1826, the Clare election two years later, proved the folly of those who think that nations are governed by wax and parchment: and, at length, in the close of 1828, the Government had only one plain choice before it, concession or civil war. Sir, I firmly believe that, if the people of England shall lose all hope of carrying the Reform Bill by constitutional means, they will forthwith begin to offer to the Government the same kind of resistance which was offered to the late Government, three years ago, by the people of Ireland, — a resistance by no means amounting to rebellion, a resistance rarely amounting to any crime defined by the law, but a resistance nevertheless which is quite sufficient to obstruct the course of justice, to disturb the pursuits of industry, and to prevent the accumulation of wealth. And is not this a danger which we ought to fear? And is not this a danger which we are

bound, by all means in our power, to avert? And who are those who taunt us for yielding to intimidation? Who are those who affect to speak with contempt of associations, and agitators, and public meetings? Even the very persons who, scarce two years ago, gave up to associations, and agitators, and public meetings, their boasted Protestant Constitution, proclaiming all the time that they saw the evils of Catholic Emancipation as strongly as ever. Surely, surely, the note of defiance which is now so loudly sounded in our ears, proceeds with a peculiarly bad grace from men whose highest glory it is that they abased themselves to the dust before a people whom their policy had driven to madness, from men the proudest moment of whose lives was that in which they appeared in the character of persecutors scared into toleration. Do they mean to indemnify themselves for the humiliation of quailing before the people of Ireland by trampling on the people of England? If so, they deceive themselves. The case of Ireland, though a strong one, was by no means so strong a case as that with which we have now to deal. The Government, in its struggle with the Catholics of Ireland, had Great Britain at its back. Whom will it have at its back in the struggle with the Reformers of Great Britain? I know only two ways in which societies can permanently be governed, by public opinion, and by the sword. A Government having at its command the armies, the fleets, and the revenues of Great Britain, might possibly hold Ireland by the sword. So Oliver Cromwell held Ireland; so William the Third held it; so Mr. Pitt held it; so the Duke of Wellington might perhaps have held it. But to govern Great Britain by the sword! So wild a thought has never, I will venture to say,

occurred to any public man of any party; and, if any man were frantic enough to make the attempt, he would find, before three days had expired, that there is no better sword than that which is fashioned out of a ploughshare. But, if not by the sword, how is the country to be governed? I understand how the peace is kept at New York. It is by the assent and support of the people. I understand also how the peace is kept at Milan. It is by the bayonets of the Austrian soldiers. But how the peace is to be kept when you have neither the popular assent nor the military force, how the peace is to be kept in England by a Government acting on the principles of the present Opposition, I do not understand.

There is in truth a great anomaly in the relation between the English people and their Government. Our institutions are either too popular or not popular enough. The people have not sufficient power in making the laws; but they have quite sufficient power to impede the execution of the laws when made. The Legislature is almost entirely aristocratical; the machinery by which the decrees of the Legislature are carried into effect is almost entirely popular; and, therefore, we constantly see all the power which ought to execute the law, employed to counteract the law. Thus, for example, with a criminal code which carries its rigour to the length of atrocity, we have a criminal judicature which often carries its lenity to the length of perjury. Our law of libel is the most absurdly severe that ever existed, so absurdly severe that, if it were carried into full effect, it would be much more oppressive than a censorship. And yet, with this severe law of libel, we have a Press which practically is as free as the air. In 1819 the Ministers complained

of the alarming increase of seditious and blasphemous publications. They proposed a bill of great rigour to stop the growth of the evil; and they carried their bill. It was enacted, that the publisher of a seditious libel might, on a second conviction, be banished, and that if he should return from banishment, he might be transported. How often was this law put in force? Not once. Last year we repealed it: but it was already dead, or rather it was dead born. It was obsolete before *Le Roi le veut* had been pronounced over it. For any effect which it produced it might as well have been in the Code Napoleon as in the English Statute Book. And why did the Government, having solicited and procured so sharp and weighty a weapon, straightway hang it up to rust? Was there less sedition, were there fewer libels, after the passing of the Act than before it? Sir, the very next year was the year 1820, the year of the Bill of Pains and Penalties against Queen Caroline, the very year when the public mind was most excited, the very year when the public press was most scurrilous. Why then did not the Ministers use their new law? Because they durst not: because they could not. They had obtained it with ease; for in obtaining it they had to deal with a subservient Parliament. They could not execute it; for in executing it they would have to deal with a refractory people. These are instances of the difficulty of carrying the law into effect when the people are inclined to thwart their rulers. The great anomaly, or, to speak more properly, the great evil which I have described, would, I believe, be removed by the Reform Bill. That bill would establish harmony between the people and the Legislature. It would give a fair share in the making of laws to those without whose coöpera-

tion laws are mere waste paper. Under a reformed system we should not see, as we now often see, the nation repealing Acts of Parliament as fast as we and the Lords can pass them. As I believe that the Reform Bill would produce this blessed and salutary concord, so I fear that the rejection of the Reform Bill, if that rejection should be considered as final, will aggravate the evil which I have been describing to an unprecedented, to a terrible extent. To all the laws which might be passed for the collection of the revenue, or for the prevention of sedition, the people would oppose the same kind of resistance by means of which they have succeeded in mitigating, I might say in abrogating, the law of libel. There would be so many offenders that the Government would scarcely know at whom to aim its blow. Every offender would have so many accomplices and protectors, that the blow would almost always miss the aim. The Veto of the people, a Veto not pronounced in set form like that of the Roman Tribunes, but quite as effectual as that of the Roman Tribunes for the purpose of impeding public measures, would meet the Government at every turn. The Administration would be unable to preserve order at home, or to uphold the national honour abroad; and, at length, men who are now moderate, who now think of revolution with horror, would begin to wish that the lingering agony of the State might be terminated by one fierce, sharp, decisive crisis.

Is there a way of escape from these calamities? I believe that there is. I believe that, if we do our duty, if we give the people reason to believe that the accomplishment of their wishes is only deferred, if we declare our undiminished attachment to the Reform Bill, and our resolution to support no minister who

will not support that bill, we shall avert the fearful disasters which impend over the country. There is danger that, at this conjuncture, men of more zeal than wisdom may obtain a fatal influence over the public mind. With these men will be joined others, who have neither zeal nor wisdom, common barrators in politics, dregs of society which, in times of violent agitation, are tossed up from the bottom to the top, and which, in quiet times, sink again from the top to their natural place at the bottom. To these men nothing is so hateful as the prospect of a reconciliation between the orders of the State. A crisis like that which now makes every honest citizen sad and anxious fills these men with joy, and with a detestable hope. And how is it that such men, formed by nature and education to be objects of mere contempt, can ever inspire terror? How is it that such men, without talents or acquirements sufficient for the management of a vestry, sometimes become dangerous to great empires? The secret of their power lies in the indolence or faithlessness of those who ought to take the lead in the redress of public grievances. The whole history of low traders in sedition is contained in that fine old Hebrew fable which we have all read in the Book of Judges. The trees meet to choose a king. The vine, and the fig-tree, and the olive-tree decline the office. Then it is that the sovereignty of the forest devolves upon the bramble: then it is that from a base and noxious shrub goes forth the fire which devours the cedars of Lebanon. Let us be instructed. If we are afraid of Political Unions and Reform Associations, let the House of Commons become the chief point of political union: let the House of Commons be the great Reform Association. If we are afraid that the people may attempt

to accomplish their wishes by unlawful means, let us give them a solemn pledge that we will use in their cause all our high and ancient privileges, so often victorious in old conflicts with tyranny: those privileges which our ancestors invoked, not in vain, on the day when a faithless king filled our house with his guards, took his seat, Sir, on your chair, and saw your predecessor kneeling on the floor before him. The Constitution of England, thank God, is not one of those constitutions which are past all repair, and which must, for the public welfare, be utterly destroyed. It has a decayed part: but it has also a sound and precious part. It requires purification; but it contains within itself the means by which that purification may be effected. We read that in old times, when the villeins were driven to revolt by oppression, when the castles of the nobility were burned to the ground, when the warehouses of London were pillaged, when a hundred thousand insurgents appeared in arms on Blackheath, when a foul murder perpetrated in their presence had raised their passions to madness, when they were looking round for some captain to succeed and avenge him whom they had lost, just then, before Hob Miller, or Tom Carter, or Jack Straw, could place himself at their head, the King rode up to them and exclaimed, "I will be your leader!" and at once the infuriated multitude laid down their arms, submitted to his guidance, dispersed at his command. Herein let us imitate him. Our countrymen are, I fear, at this moment, but too much disposed to lend a credulous ear to selfish impostors. Let us say to them, "We are your leaders; we, your own House of Commons; we, the constitutional interpreters of your wishes; the knights of forty English shires, the citizens and burgesses of all your

largest towns. Our lawful power shall be firmly exerted to the utmost in your cause; and our lawful power is such, that, when firmly exerted in your cause, it must finally prevail." This tone it is our interest and our duty to take. The circumstances admit of no delay. Is there one among us who is not looking with breathless anxiety for the next tidings which may arrive from the remote parts of the kingdom? Even while I speak, the moments are passing away, the irrevocable moments pregnant with the destiny of a great people. The country is in danger: it may be saved: we can save it: this is the way: this is the time. In our hands are the issues of great good and great evil, the issues of the life and death of the State. May the result of our deliberations be the repose and prosperity of that noble country which is entitled to all our love; and for the safety of which we are answerable to our own consciences, to the memory of future ages, to the Judge of all hearts!

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 16TH OF DECEMBER, 1831.

On Friday, the sixteenth of December, 1831, Lord Althorpe moved the second reading of the Bill to amend the representation of the people in England and Wales. Lord Porchester moved, as an amendment, that the Bill should be read a second time that day six months. The debate lasted till after midnight, and was then adjourned till twelve at noon. The House did not divide till one on the Sunday morning. The amendment was then rejected by 324 votes to 162; and the original motion was carried. The following Speech was made on the first night of the debate: —

I CAN assure my noble friend,[1] for whom I entertain sentiments of respect and kindness which no political difference will, I trust, ever disturb, that his remarks have given me no pain, except, indeed, the pain which I feel at being compelled to say a few words about myself. Those words shall be very few. I know how unpopular egotism is in this House. My noble friend says that, in the debates of last March, I declared myself opposed to the ballot, and that I have since recanted, for the purpose of making myself popular with the inhabitants of Leeds. My noble friend is altogether mistaken. I never said, in any debate, that I was opposed to the ballot. The word ballot never passed my lips within this House. I observed strict silence respecting it on two accounts: in the first place, be-

[1] Lord Mahon.

cause my own opinions were, till very lately, undecided; in the second place, because I knew that the agitation of that question, a question of which the importance appears to me to be greatly overrated, would divide those on whose firm and cordial union the safety of the empire depends. My noble friend has taken this opportunity of replying to a speech which I made last October. The doctrines which I then laid down were, according to him, most intemperate and dangerous. Now, Sir, it happens, curiously enough, that my noble friend has himself asserted, in his speech of this night, those very doctrines, in language so nearly resembling mine that I might fairly accuse him of plagiarism. I said that laws have no force in themselves, and that, unless supported by public opinion, they are a mere dead letter. The noble Lord has said exactly the same thing to-night. "Keep your old Constitution," he exclaims; "for, whatever may be its defects in theory, it has more of the public veneration than your new Constitution will have; and no laws can be efficient, unless they have the public veneration." I said, that statutes are in themselves only wax and parchment; and I was called an incendiary by the Opposition. The noble Lord has said to-night that statutes in themselves are only ink and parchment; and those very persons who reviled me have enthusiastically cheered him. I am quite at a loss to understand how doctrines which are, in his mouth, true and constitutional, can, in mine, be false and revolutionary.

But, Sir, it is time that I should address myself to the momentous question before us. I shall certainly give my best support to this bill through all its stages; and, in so doing, I conceive that I shall act in strict conformity with the resolution by which this House,

towards the close of the late Session, declared its unabated attachment to the principles and to the leading provisions of the first Reform Bill. All those principles, all those leading provisions, I find in the present measure. In the details there are, undoubtedly, considerable alterations. Most of the alterations appear to me to be improvements; and even those alterations which I cannot consider as in themselves improvements will yet be most useful, if their effect shall be to conciliate opponents, and to facilitate the adjustment of a question which, for the sake of order, for the sake of peace, for the sake of trade, ought to be, not only satisfactorily, but speedily settled. We have been told, Sir, that, if we pronounce this bill to be a better bill than the last, we recant all the doctrines which we maintained during the last Session; we sing our palinode; we allow that we have had a great escape; we allow that our own conduct was deserving of censure; we allow that the party which was the minority in this House, and, most unhappily for the country, the majority in the other House, has saved the country from a great calamity. Sir, even if this charge were well founded, there are those who should have been prevented by prudence, if not by magnanimity, from bringing it forward. I remember an Opposition which took a very different course. I remember an Opposition which, while excluded from power, taught all its doctrines to the Government; which, after labouring long, and sacrificing much, in order to effect improvements in various parts of our political and commercial system, saw the honour of those improvements appropriated by others. But the members of that Opposition had, I believe, a sincere desire to promote the public good. They, therefore, raised no shout of triumph

over the recantations of their proselytes. They rejoiced, but with no ungenerous joy, when their principles of trade, of jurisprudence, of foreign policy, of religious liberty, became the principles of the Administration. They were content that he who came into fellowship with them at the eleventh hour should have a far larger share of the reward than those who had borne the burden and heat of the day. In the year 1828, a single division in this House changed the whole policy of the Government with respect to the Test and Corporation Acts. My noble friend, the Paymaster of the Forces, then sat where the Right Honourable Baronet, the Member for Tamworth, now sits. I do not remember that, when the Right Honourable Baronet announced his change of purpose, my noble friend sprang up to talk about palinodes, to magnify the wisdom and virtue of the Whigs, and to sneer at his new coadjutors. Indeed, I am not sure that the members of the late Opposition did not carry their indulgence too far; that they did not too easily suffer the fame of Grattan and Romilly to be transferred to less deserving claimants; that they were not too ready, in the joy with which they welcomed the tardy and convenient repentance of their converts, to grant a general amnesty for the errors or the insincerity of years. If it were true that we had recanted, this ought not to be made matter of charge against us by men whom posterity will remember by nothing but recantations. But, in truth, we recant nothing. We have nothing to recant. We support this bill. We may possibly think it a better bill than that which preceded it. But are we therefore bound to admit that we were in the wrong, that the Opposition was in the right, that the House of Lords has conferred a great benefit on

the nation? We saw — who did not see? — great defects in the first bill. But did we see nothing else? Is delay no evil? Is prolonged excitement no evil? Is it no evil that the heart of a great people should be made sick by deferred hope? We allow that many of the changes which have been made are improvements. But we think that it would have been far better for the country to have had the last bill, with all its defects, than the present bill, with all its improvements. Second thoughts are proverbially the best, but there are emergencies which do not admit of second thoughts. There probably never was a law which might not have been amended by delay. But there have been many cases in which there would have been more mischief in the delay than benefit in the amendments. The first bill, however inferior it may have been in its details to the present bill, was yet herein far superior to the present bill, that it was the first. If the first bill had passed, it would, I firmly believe, have produced a complete reconciliation between the aristocracy and the people. It is my earnest wish and prayer that the present bill may produce this blessed effect; but I cannot say that my hopes are so sanguine as they were at the beginning of the last Session. The decision of the House of Lords has, I fear, excited in the public mind feelings of resentment which will not soon be allayed What then, it is said, would you legislate in haste? Would you legislate in times of great excitement concerning matters of such deep concern? Yes, Sir, I would: and if any bad consequences should follow from the haste and the excitement, let those be held answerable who, when there was no need of haste, when there existed no excitement, refused to listen to any project of Reform, nay, who made it an argument

against Reform, that the public mind was not excited. When few meetings were held, when few petitions were sent up to us, these politicians said, "Would you alter a Constitution with which the people are perfectly satisfied?" And now, when the kingdom from one end to the other is convulsed by the question of Reform, we hear it said by the very same persons, "Would you alter the Representative system in such agitated times as these?" Half the logic of misgovernment lies in this one sophistical dilemma: If the people are turbulent, they are unfit for liberty: if they are quiet, they do not want liberty.

I allow that hasty legislation is an evil. I allow that there are great objections to legislating in troubled times. But Reformers are compelled to legislate fast, because bigots will not legislate early. Reformers are compelled to legislate in times of excitement, because bigots will not legislate in times of tranquillity. If, ten years ago, nay if only two years ago, there had been at the head of affairs men who understood the signs of the times and the temper of the nation, we should not have been forced to hurry now. If we cannot take our time, it is because we have to make up for their lost time. If they had reformed gradually, we might have reformed gradually; but we are compelled to move fast, because they would not move at all.

Though I admit, Sir, that this bill is in its details superior to the former bill, I must say that the best parts of this bill, those parts for the sake of which principally I support it, those parts for the sake of which I would support it, however imperfect its details might be, are parts which it has in common with the former bill. It destroys nomination; it admits the

great body of the middle orders to a share in the government; and it contains provisions which will, as I conceive, greatly diminish the expense of elections.

Touching the expense of elections I will say a few words, because that part of the subject has not, I think, received so much attention as it deserves. Whenever the nomination boroughs are attacked, the opponents of reform produce a long list of eminent men who have sate for those boroughs, and who, they tell us, would never have taken any part in public affairs but for those boroughs. Now, Sir, I suppose no person will maintain that a large constituent body is likely to prefer ignorant and incapable men to men of information and ability? Whatever objections there may be to democratic institutions, it was never, I believe, doubted that those institutions are favourable to the development of talents. We may prefer the constitution of Sparta to that of Athens, or the constitution of Venice to that of Florence: but no person will deny that Athens produced more great men than Sparta, or that Florence produced more great men than Venice. But to come nearer home; the five largest English towns which have now the right of returning two members each by popular election, are Westminster, Southwark, Liverpool, Bristol, and Norwich. Now let us see what members those places have sent to Parliament. I will not speak of the living, though among the living are some of the most distinguished ornaments of the House. I will confine myself to the dead. Among many respectable and useful members of Parliament, whom these towns have returned, during the last half century, I find Mr. Burke, Mr. Fox, Mr. Sheridan, Mr. Windham, Mr. Tierney, Sir Samuel Romilly, Mr. Canning, Mr. Huskisson. These were eight of the

most illustrious parliamentary leaders of the generation which is passing away from the world. Mr. Pitt was, perhaps, the only person worthy to make a ninth with them. It is, surely, a remarkable circumstance that, of the nine most distinguished Members of the House of Commons who have died within the last forty years, eight should have been returned to Parliament by the five largest represented towns. I am, therefore, warranted in saying that great constituent bodies are quite as competent to discern merit, and quite as much disposed to reward merit, as the proprietors of boroughs. It is true that some of the distinguished statesmen whom I have mentioned would never have been known to large constituent bodies if they had not first sate for nomination boroughs. But why is this? Simply, because the expense of contesting popular places, under the present system, is ruinously great. A poor man cannot defray it; an untried man cannot expect his constituents to defray it for him. And this is the way in which our Representative system is defended. Corruption vouches corruption. Every abuse is made the plea for another abuse. We must have nomination at Gatton, because we have profusion at Liverpool. Sir, these arguments convince me, not that no Reform is required, but that a very deep and searching Reform is required. If two evils serve in some respects to counterbalance each other, this is a reason, not for keeping both, but for getting rid of both together. At present you close against men of talents that broad, that noble entrance which belongs to them, and which ought to stand wide open to them; and in exchange you open to them a bye entrance, low and narrow, always obscure, often filthy, through which, too often, they can pass only by crawling on their hands and

knees, and from which they too often emerge sullied with stains never to be washed away. But take the most favourable case. Suppose that the member who sits for a nomination borough owes his seat to a man of virtue and honour, to a man whose service is perfect freedom, to a man who would think himself degraded by any proof of gratitude which might degrade his nominee. Yet is it nothing that such a member comes into this House wearing the badge, though not feeling the chain, of servitude? Is it nothing that he cannot speak of his independence without exciting a smile? Is it nothing that he is considered, not as a Representative, but as an adventurer? This is what your system does for men of genius. It admits them to political power, not as, under better institutions, they would be admitted to power, erect, independent, unsullied; but by means which corrupt the virtue of many, and in some degree diminish the authority of all. Could any system be devised, better fitted to pervert the principles and break the spirit of men formed to be the glory of their country? And, can we mention no instance in which this system has made such men useless, or worse than useless, to the country of which their talents were the ornament, and might, in happier circumstances, have been the salvation? Ariel, the beautiful and kindly Ariel, doing the bidding of the loathsome and malignant Sycorax, is but a faint type of genius enslaved by the spells, and employed in the drudgery, of corruption —

"A spirit too delicate
To act those earthy and abhorred commands."

We cannot do a greater service to men of real merit than by destroying that which has been called their refuge, which is their house of bondage; by taking

from them the patronage of the great, and giving to them in its stead the respect and confidence of the people. The bill now before us will, I believe, produce that happy effect. It facilitates the canvass; it reduces the expense of legal agency; it shortens the poll; above all, it disfranchises the outvoters. It is not easy to calculate the precise extent to which these changes will diminish the cost of elections. I have attempted, however, to obtain some information on this subject. I have applied to a gentleman of great experience in affairs of this kind, a gentleman who, at the last three general elections, managed the finances of the popular party in one of the largest boroughs in the kingdom. He tells me, that at the general election of 1826, when that borough was contested, the expenses of the popular candidate amounted to eighteen thousand pounds; and that, by the best estimate which can now be made, the borough may, under the reformed system, be as effectually contested for one tenth part of that sum. In the new constituent bodies there are no ancient rights reserved. In those bodies, therefore, the expense of an election will be still smaller. I firmly believe that it will be possible to poll out Manchester for less than the market price of Old Sarum.

Sir, I have, from the beginning of these discussions, supported Reform on two grounds: first, because I believe it to be in itself a good thing; and secondly, because I think the dangers of withholding it so great that, even if it were an evil, it would be the less of two evils. The dangers of the country have in no wise diminished. I believe that they have greatly increased. It is, I fear, impossible to deny that what has happened with respect to almost every great question that ever divided mankind has happened also with

respect to the Reform Bill. Wherever great interests are at stake there will be much excitement; and wherever there is much excitement there will be some extravagance. The same great stirring of the human mind which produced the Reformation produced also the follies and crimes of the Anabaptists. The same spirit which resisted the Shipmoney, and abolished the Starchamber, produced the Levellers and the Fifth Monarchy men. And so, it cannot be denied that bad men, availing themselves of the agitation produced by the question of Reform, have promulgated, and promulgated with some success, doctrines incompatible with the existence, I do not say of monarchy, or of aristocracy, but of all law, of all order, of all property, of all civilisation, of all that makes us to differ from Mohawks or Hottentots. I bring no accusation against that portion of the working classes which has been imposed upon by these doctrines. Those persons are what their situation has made them, ignorant from want of leisure, irritable from the sense of distress. That they should be deluded by impudent assertions and gross sophisms; that, suffering cruel privations, they should give ready credence to promises of relief; that, never having investigated the nature and operation of government, they should expect impossibilities from it, and should reproach it for not performing impossibilities; all this is perfectly natural. No errors which they may commit ought ever to make us forget that it is in all probability owing solely to the accident of our situation that we have not fallen into errors precisely similar. There are few of us who do not know from experience that, even with all our advantages of education, pain and sorrow can make us very querulous and very unreasonable. We ought not, therefore,

to be surprised that, as the Scotch proverb says, "it shou.d be ill talking between a full man and a fasting;" that the logic of the rich man who vindicates the rights of property, should seem very inconclusive to the poor man who hears his children cry for bread. I bring, I say, no accusation against the working classes. I would withhold from them nothing which it might be for their good to possess. I see with pleasure that, by the provisions of the Reform Bill, the most industrious and respectable of our labourers will be admitted to a share in the government of the State. If I would refuse to the working people that larger share of power which some of them have demanded, I would refuse it, because I am convinced that, by giving it, I should only increase their distress. I admit that the end of government is their happiness. But, that they may be governed for their happiness, they must not be governed according to the doctrines which they have learned from their illiterate, incapable, lowminded flatterers.

But, Sir, the fact that such doctrines have been promulgated among the multitude is a strong argument for a speedy and effectual reform. That government is attacked is a reason for making the foundations of government broader, and deeper, and more solid. That property is attacked is a reason for binding together all proprietors in the firmest union. That the agitation of the question of Reform has enabled worthless demagogues to propagate their notions with some success is a reason for speedily settling the question in the only way in which it can be settled. It is difficult, Sir, to conceive any spectacle more alarming than that which presents itself to us, when we look at the two extreme parties in this

country; a narrow oligarchy above; an infuriated multitude below; on the one side the vices engendered by power; on the other side the vices engendered by distress; one party blindly averse to improvement; the other party blindly clamouring for destruction; one party ascribing to political abuses the sanctity of property; the other party crying out against property as a political abuse. Both these parties are alike ignorant of their true interest. God forbid that the State should ever be at the mercy of either, or should ever experience the calamities which must result from a collision between them! I anticipate no such horrible event. For, between those two parties stands a third party, infinitely more powerful than both the others put together, attacked by both, vilified by both, but destined, I trust, to save both from the fatal effects of their own folly. To that party I have never ceased, through all the vicissitudes of public affairs, to look with confidence and with a good hope. I speak of that great party which zealously and steadily supported the first Reform Bill, and which will, I have no doubt, support the second Reform Bill, with equal steadiness and equal zeal. That party is the middle class of England, with the flower of the aristocracy at its head, and the flower of the working classes bringing up its rear. That great party has taken its immovable stand between the enemies of all order and the enemies of all liberty. It will have Reform: it will not have revolution: it will destroy political abuses: it will not suffer the rights of property to be assailed: it will preserve, in spite of themselves, those who are assailing it, from the right and from the left, with contradictory accusations: it will be a daysman between them: it will lay its hand upon them both:

it will not suffer them to tear each other in pieces. While that great party continues unbroken, as it now is unbroken, I shall not relinquish the hope that this great contest may be conducted, by lawful means, to a happy termination. But, of this I am assured, that by means, lawful or unlawful, to a termination, happy or unhappy, this contest must speedily come. All that I know of the history of past times, all the observations that I have been able to make on the present state of the country, have convinced me that the time has arrived when a great concession must be made to the democracy of England; that the question, whether the change be in itself good or bad, has become a question of secondary importance; that, good or bad, the thing must be done; that a law as strong as the laws of attraction and motion has decreed it.

I well know that history, when we look at it in small portions, may be so construed as to mean anything, that it may be interpreted in as many ways as a Delphic oracle. "The French Revolution," says one expositor, "was the effect of concession." "Not so," cries another: "the French Revolution was produced by the obstinacy of an arbitrary government." "If the French nobles," says the first, "had refused to sit with the Third Estate, they would never have been driven from their country." "They would never have been driven from their country," answers the other, "if they had agreed to the reforms proposed by M. Turgot." These controversies can never be brought to any decisive test, or to any satisfactory conclusion. But, as I believe that history, when we look at it in small fragments, proves anything, or nothing, so I believe that it is full of useful and precious instruction when we contemplate it in large portions,

when we take in, at one view, the whole lifetime of great societies. I believe that it is possible to obtain some insight into the law which regulates the growth of communities, and some knowledge of the effects which that growth produces. The history of England, in particular, is the history of a government constantly giving way, sometimes peaceably, sometimes after a violent struggle, but constantly giving way before a nation which has been constantly advancing. The forest laws, the laws of villenage, the oppressive power of the Roman Catholic Church, the power, scarcely less oppressive, which, during some time after the Reformation, was exercised by the Protestant Establishment, the prerogatives of the Crown, the censorship of the Press, successively yielded. The abuses of the representative system are now yielding to the same irresistible force. It was impossible for the Stuarts, and it would have been impossible for them if they had possessed all the energy of Richelieu, and all the craft of Mazarin, to govern England as England had been governed by the Tudors. It was impossible for the princes of the House of Hanover to govern England as England had been governed by the Stuarts. And so it is impossible that England should be any longer governed as it was governed under the four first princes of the House of Hanover. I say impossible. I believe that over the great changes of the moral world we possess as little power as over the great changes of the physical world. We can no more prevent time from changing the distribution of property and of intelligence, we can no more prevent property and intelligence from aspiring to political power, than we can change the courses of the seasons and of the tides. In peace or in tumult,

by means of old institutions, where those institutions are flexible, over the ruins of old institutions, where those institutions oppose an unbending resistance, the great march of society proceeds, and must proceed. The feeble efforts of individuals to bear back are lost and swept away in the mighty rush with which the species goes onward. Those who appear to lead the movement are, in fact, only whirled along before it; those who attempt to resist it, are beaten down and crushed beneath it.

It is because rulers do not pay sufficient attention to the stages of this great movement, because they underrate its force, because they are ignorant of its law, that so many violent and fearful revolutions have changed the face of society. We have heard it said a hundred times during these discussions, we have heard it said repeatedly in the course of this very debate, that the people of England are more free than ever they were, that the Government is more democratic than ever it was; and this is urged as an argument against Reform. I admit the fact; but I deny the inference. It is a principle never to be forgotten, in discussions like this, that it is not by absolute, but by relative misgovernment that nations are roused to madness. It is not sufficient to look merely at the form of government. We must look also to the state of the public mind. The worst tyrant that ever had his neck wrung in modern Europe might have passed for a paragon of clemency in Persia or Morocco. Our Indian subjects submit patiently to a monopoly of salt. We tried a stamp duty, a duty so light as to be scarcely perceptible, on the fierce breed of the old Puritans; and we lost an empire. The Government of Lewis the Sixteenth was certainly a much better and milder Govern-

ment than that of Lewis the Fourteenth; yet Lewis the Fourteenth was admired, and even loved, by his people. Lewis the Sixteenth died on the scaffold. Why? Because, though the Government had made many steps in the career of improvement, it had not advanced so rapidly as the nation. Look at our own history. The liberties of the people were at least as much respected by Charles the First as by Henry the Eighth, by James the Second as by Edward the Sixth. But did this save the crown of James the Second? Did this save the head of Charles the First? Every person who knows the history of our civil dissensions knows that all those arguments which are now employed by the opponents of the Reform Bill might have been employed, and were actually employed, by the unfortunate Stuarts. The reasoning of Charles, and of all his apologists, runs thus: — "What new grievance does the nation suffer? What has the King done more than what Henry did? more than what Elizabeth did? Did the people ever enjoy more freedom than at present? Did they ever enjoy so much freedom?" But what would a wise and honest counsellor, if Charles had been so happy as to possess such a counsellor, have replied to arguments like these? He would have said, "Sir, I acknowledge that the people were never more free than under your government. I acknowledge that those who talk of restoring the old Constitution of England use an improper expression. I acknowledge that there has been a constant improvement during those very years during which many persons imagine that there has been a constant deterioration. But, though there has been no change in the government for the worse, there has been a change in the public mind which produces exactly the same

effect which would be produced by a change in the government for the worse. Perhaps this change in the public mind is to be regretted. But no matter; you cannot reverse it. You cannot undo all that eighty eventful years have done. You cannot transform the Englishmen of 1640 into the Englishmen of 1560. It may be that the simple loyalty of our fathers was preferable to that inquiring, censuring, resisting spirit which is now abroad. It may be that the times when men paid their benevolences cheerfully were better times than these, when a gentleman goes before the Exchequer Chamber to resist an assessment of twenty shillings. And so it may be that infancy is a happier time than manhood, and manhood than old age. But God has decreed that old age shall succeed to manhood, and manhood to infancy. Even so have societies their law of growth. As their strength becomes greater, as their experience becomes more extensive, you can no longer confine them within the swaddling bands, or lull them in the cradles, or amuse them with the rattles, or terrify them with the bugbears of their infancy. I do not say that they are better or happier than they were; but this I say, that they are different from what they were, that you cannot again make them what they were, and that you cannot safely treat them as if they continued to be what they were." This was the advice which a wise and honest Minister would have given to Charles the First. These were the principles on which that unhappy prince should have acted. But no. He would govern, I do not say ill, I do not say tyrannically; I say only this; he would govern the men of the seventeenth century as if they had been the men of the sixteenth century; and therefore it was, that all his talents

and all his virtues did not save him from unpopularity, from civil war, from a prison, from a bar, from a scaffold. These things are written for our instruction. Another great intellectual revolution has taken place; our lot has been cast on a time analogous, in many respects, to the time which immediately preceded the meeting of the Long Parliament. There is a change in society. There must be a corresponding change in the government. We are not, we cannot, in the nature of things, be, what our fathers were. We are no more like the men of the American war, or the men of the gagging bills, than the men who cried "privilege" round the coach of Charles the First, were like the men who changed their religion once a year at the bidding of Henry the Eighth. That there is such a change, I can no more doubt than I can doubt that we have more power looms, more steam engines, more gas lights, than our ancestors. That there is such a change, the Minister will surely find who shall attempt to fit the yoke of Mr. Pitt to the necks of the Englishmen of the nineteenth century. What then can you do to bring back those times when the constitution of this House was an object of veneration to the people? Even as much as Strafford and Laud could do to bring back the days of the Tudors; as much as Bonner and Gardiner could do to bring back the days of Hildebrand; as much as Villèle and Polignac could do to bring back the days of Lewis the Fourteenth. You may make the change tedious; you may make it violent; you may — God in his mercy forbid! — you may make it bloody; but avert it you cannot. Agitations of the public mind, so deep and so long continued as those which we have witnessed, do not end in nothing. In peace or in convulsion, by the law, or

in spite of the law, through the Parliament, or over the Parliament, Reform must be carried. Therefore be content to guide that movement which you cannot stop. Fling wide the gates to that force which else will enter through the breach. Then will it still be, as it has hitherto been, the peculiar glory of our Constitution that, though not exempt from the decay which is wrought by the vicissitudes of fortune, and the lapse of time, in all the proudest works of human power and wisdom, it yet contains within it the means of self-reparation. Then will England add to her manifold titles of glory this, the noblest and the purest of all; that every blessing which other nations have been forced to seek, and have too often sought in vain, by means of violent and bloody revolutions, she will have attained by a peaceful and a lawful Reform.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 27TH OF FEBRUARY 1832.

On Monday, the twenty-seventh of February, 1832, the House took into consideration the report of the Committee on Mr. Warburton's Anatomy Bill. Mr. Henry Hunt attacked that bill with great asperity. In reply to him the following Speech was made: —

Sir, I cannot, even at this late hour of the night, refrain from saying two or three words. Most of the observations of the honourable Member for Preston I pass by, as undeserving of any answer before an audience like this. But on one part of his speech I must make a few remarks. We are, he says, making a law to benefit the rich, at the expense of the poor. Sir, the fact is the direct reverse. This is a bill which tends especially to the benefit of the poor. What are the evils against which we are attempting to make provision? Two especially; that is to say, the practice of Burking, and bad surgery. Now to both these the poor alone are exposed. What man, in our rank of life, runs the smallest risk of being Burked? That a man has property, that he has connections, that he is likely to be missed and sought for, are circumstances which secure him against the Burker. It is curious to observe the difference between murders of this kind and other murders. An ordinary murderer hides the body, and disposes of the property. Bishop and Wil-

liams dig holes and bury the property, and expose the body to sale. The more wretched, the more lonely, any human being may be, the more desirable prey is he to these wretches. It is the man, the mere naked man, that they pursue. Again, as to bad surgery; this is, of all evils, the evil by which the rich suffer least, and the poor most. If we could do all that in the opinion of the Member for Preston ought to be done, if we could prevent disinterment, if we could prevent dissection, if we could destroy the English school of anatomy, if we could force every student of medical science to go to the expense of a foreign education, on whom would the bad consequences fall? On the rich? Not at all. As long as there is in France, in Italy, in Germany, a single surgeon of eminent skill, a single surgeon who is, to use the phrase of the Member for Preston, addicted to dissection, that surgeon will be in attendance whenever an English nobleman is to be cut for the stone. The higher orders in England will always be able to procure the best medical assistance. Who suffers by the bad state of the Russian school of surgery? The Emperor Nicholas? By no means. The whole evil falls on the peasantry. If the education of a surgeon should become very expensive, if the fees of surgeons should consequently rise, if the supply of regular surgeons should diminish, the sufferers would be, not the rich, but the poor in our country villages, who would again be left to mountebanks, and barbers, and old women, and charms, and quack medicines. The honourable gentleman talks of sacrificing the interests of humanity to the interests of science, as if this were a question about the squaring of the circle, or the transit of Venus. This is not a mere question of science: it is not the unprofitable exercise

of an ingenious mind: it is a question between health and sickness, between ease and torment, between life and death. Does the honourable gentleman know from what cruel sufferings the improvement of surgical science has rescued our species? I will tell him one story, the first that comes into my head. He may have heard of Leopold, Duke of Austria, the same who imprisoned our Richard Cœur-de-Lion. Leopold's horse fell under him, and crushed his leg. The surgeons said that the limb must be amputated; but none of them knew how to amputate it. Leopold, in his agony, laid a hatchet on his thigh, and ordered his servant to strike with a mallet. The leg was cut off, and the Duke died of the gush of blood. Such was the end of that powerful prince. Why, there is not now a bricklayer who falls from a ladder in England, who cannot obtain surgical assistance, infinitely superior to that which the sovereign of Austria could command in the twelfth century. I think this is a bill which tends to the good of the people, and which tends especially to the good of the poor. Therefore I support it. If it is unpopular, I am sorry for it. But I shall cheerfully take my share of its unpopularity. For such, I am convinced, ought to be the conduct of one whose object it is not to flatter the people, but to serve them.

A SPEECH

DELIVERED IN A COMMITTEE OF THE HOUSE OF COMMONS ON THE 28TH OF FEBRUARY, 1832

On Tuesday, the twenty-eighth of February, 1832, in the Committee on the Bill to amend the representation of the people in England and Wales, the question was put, "That the Tower Hamlets, Middlesex, stand part of Schedule C." The opponents of the Bill mustered their whole strength on this occasion, and were joined by some members who had voted with the Government on the second reading. The question was carried, however, by 316 votes to 236. The following Speech was made in reply to the Marquess of Chandos and Sir Edward Sugden, who, on very different grounds, objected to any increase in the number of metropolitan members: —

Mr. Bernal, —

I have spoken so often on the question of Parliamentary Reform, that I am very unwilling to occupy the time of the Committee. But the importance of the amendment proposed by the noble Marquess, and the peculiar circumstances in which we are placed to-night, make me so anxious that I cannot remain silent.

In this debate, as in every other debate, our first object should be to ascertain on which side the burden of the proof lies. Now, it seems to me quite clear that the burden of the proof lies on those who support the amendment. I am entitled to take it for granted that it is right and wise to give representatives to some wealthy and populous places which have hitherto been unrepresented. To this extent, at least, we all, with

scarcely an exception, now profess ourselves Reformers. There is, indeed, a great party which still objects to the disfranchising even of the smallest borough. But all the most distinguished chiefs of that party have, here and elsewhere, admitted that the elective franchise ought to be given to some great towns which have risen into importance since our representative system took its present form. If this be so, on what ground can it be contended that these metropolitan districts ought not to be represented? Are they inferior in importance to the other places to which we are all prepared to give members? I use the word importance with perfect confidence: for, though in our recent debates there has been some dispute as to the standard by which the importance of towns is to be measured, there is no room for dispute here. Here, take what standard you will, the result will be the same. Take population: take the rental: take the number of ten pound houses: take the amount of the assessed taxes: take any test in short: take any number of tests, and combine those tests in any of the ingenious ways which men of science have suggested: multiply: divide: substract: add: try squares or cubes: try square roots or cube roots: you will never be able to find a pretext for excluding these districts from Schedule C. If, then, it be acknowledged that the franchise ought to be given to important places which are at present unrepresented, and if it be acknowledged that these districts are in importance not inferior to any place which is at present unrepresented, you are bound to give us strong reasons for withholding the franchise from these districts.

The honourable and learned gentleman [1] has tried to give such reasons: and, in doing so, he has completely

[1] Sir E. Sudgen.

refuted the whole speech of the noble Marquess, with whom he means to divide.[1] The truth is that the noble Marquess and the honourable and learned gentleman, though they agree in their votes, do not at all agree in their forebodings or in their ulterior intentions. The honourable and learned gentleman thinks it dangerous to increase the number of metropolitan voters. The noble Lord is perfectly willing to increase the number of metropolitan voters, and objects only to any increase in the number of metropolitan members. "Will you," says the honourable and learned gentleman, "be so rash, so insane, as to create constituent bodies of twenty or thirty thousand electors?" "Yes," says the noble Marquess, "and much more than that. I will create constituent bodies of forty thousand, sixty thousand, a hundred thousand. I will add Marylebone to Westminster. I will add Lambeth to Southwark. I will add Finsbury and the Tower Hamlets to the City." The noble Marquess, it is clear, is not afraid of the excitement which may be produced by the polling of immense multitudes. Of what then is he afraid? Simply of eight members: nay, of six members: for he is willing, he tells us, to add two members to the two who already sit for Middlesex, and who may be considered as metropolitan members. Are six members, then, so formidable? I could mention a single peer who now sends more than six members to the House. But, says the noble Marquess, the members for the metropolitan districts will be called to a strict account by their constituents: they will be mere delegates: they will be forced to speak, not their own sense, but the sense of the capital. I will answer for it, Sir, that they will not be called to a stricter account

[1] The Marquess of Chandos.

than those gentlemen who are nominated by some great proprietors of boroughs. Is it not notorious that those who represent it as in the highest degree pernicious and degrading that a public man should be called to account by a great city which has entrusted its dearest interests to his care, do nevertheless think that he is bound by the most sacred ties of honour to vote according to the wishes of his patron or to apply for the Chiltern Hundreds? It is a bad thing, I fully admit, that a Member of Parliament should be a mere delegate. But it is not worse that he should be the delegate of a hundred thousand people than of one too powerful individual. What a perverse, what an inconsistent spirit is this; too proud to bend to the wishes of a nation, yet ready to lick the dust at the feet of a patron! And how is it proved that a member for Lambeth or Finsbury will be under a more servile awe of his constituents than a member for Leicester, or a member for Leicestershire, or a member for the University of Oxford? Is it not perfectly notorious that many members voted, year after year, against Catholic Emancipation, simply because they knew that, if they voted otherwise, they would lose their seats? No doubt this is an evil. But it is an evil which will exist in some form or other as long as human nature is the same, as long as there are men so lowminded as to prefer the gratification of a vulgar ambition to the approbation of their conscience and the welfare of their country. Construct your representative system as you will, these men will always be sycophants. If you give power to Marylebone, they will fawn on the householders of Marylebone. If you leave power to Gatton, they will fawn on the proprietor of Gatton. I can see no reason for believing that their baseness will

be more mischievous in the former case than in the latter.

But, it is said, the power of this huge capital is even now dangerously great; and will you increase that power? Now, Sir, I am far from denying that the power of London is, in some sense, dangerously great; but I altogether deny that the danger will be increased by this bill. It has always been found that a hundred thousand people congregated close to the seat of government exercise a greater influence on public affairs than five hundred thousand dispersed over a remote province. But this influence is not proportioned to the number of representatives chosen by the capital. This influence is felt at present, though the greater part of the capital is unrepresented. This influence is felt in countries where there is no representative system at all. Indeed, this influence is nowhere so great as under despotic governments. I need not remind the Committee that the Cæsars, while ruling by the sword, while putting to death without a trial every senator, every magistrate, who incurred their displeasure, yet found it necessary to keep the populace of the imperial city in good humour by distributions of corn and shows of wild beasts. Every country, from Britain to Egypt, was squeezed for the means of filling the granaries and adorning the theatres of Rome. On more than one occasion, long after the Cortes of Castile had become a mere name, the rabble of Madrid assembled before the royal palace, forced their King, their absolute King, to appear in the balcony, and exacted from him a promise that he would dismiss an obnoxious minister. It was in this way that Charles the Second was forced to part with Oropesa, and that Charles the Third was forced to part with

Squillaci. If there is any country in the world where pure despotism exists, that country is Turkey; and yet there is no country in the world where the inhabitants of the capital are so much dreaded by the Government. The Sultan, who stands in awe of nothing else, stands in awe of the turbulent populace, which may, at any moment, besiege him in his Seraglio. As soon as Constantinople is up, everything is conceded. The unpopular edict is recalled. The unpopular vizier is beheaded. This sort of power has nothing to do with representation. It depends on physical force and on vicinity. You do not propose to take this sort of power away from London. Indeed, you cannot take it away. Nothing can take it away but an earthquake more terrible than that of Lisbon, or a fire more destructive than that of 1666. Law can do nothing against this description of power; for it is a power which is formidable only when law has ceased to exist. While the reign of law continues, eight votes in a House of six hundred and fifty-eight Members will hardly do much harm. When the reign of law is at an end, and the reign of violence commences, the importance of a million and a half of people, all collected within a walk of the Palace, of the Parliament House, of the Bank, of the Courts of Justice, will not be measured by eight or by eighty votes. See, then, what you are doing. That power which is not dangerous you refuse to London. That power which is dangerous you leave undiminished; nay, you make it more dangerous still. For by refusing to let eight or nine hundred thousand people express their opinions and wishes in a legal and constitutional way, you increase the risk of disaffection and of tumult. It is not necessary to have recourse to the speeches or writings of democrats to show that a

represented district is far more likely to be turbulent than an unrepresented district. Mr. Burke, surely not a rash innovator, not a flatterer of the multitude, described long ago in this place with admirable eloquence the effect produced by the law which gave representative institutions to the rebellious mountaineers of Wales. That law, he said, had been to an agitated nation what the twin stars celebrated by Horace were to a stormy sea: the wind had fallen; the clouds had dispersed; the threatening waves had sunk to rest. I have mentioned the commotions of Madrid and Constantinople. Why is it that the population of unrepresented London, though physically far more powerful than the population of Madrid or of Constantinople, has been far more peaceable? Why have we never seen the inhabitants of the metropolis besiege St. James's, or force their way riotously into this House? Why, but because they have other means of giving vent to their feelings, because they enjoy the liberty of unlicensed printing, and the liberty of holding public meetings. Just as the people of unrepresented London are more orderly than the people of Constantinople and Madrid, so will the people of represented London be more orderly than the people of unrepresented London.

Surely, Sir, nothing can be more absurd than to withhold legal power from a portion of the community because that portion of the community possesses natural power. Yet that is precisely what the noble Marquess would have us do. In all ages a chief cause of the intestine disorders of states has been that the natural distribution of power and the legal distribution of power have not corresponded with each other. This is no newly discovered truth. It was well known to

Aristotle more than two thousand years ago. It is illustrated by every part of ancient and of modern history, and eminently by the history of England during the last few months. Our country has been in serious danger; and why? Because a representative system, framed to suit the England of the thirteenth century, did not suit the England of the nineteenth century; because an old wall, the last relique of a departed city, retained the privileges of that city, while great towns, celebrated all over the world for wealth and intelligence, had no more share in the government than when they were still hamlets. The object of this bill is to correct those monstrous disproportions, and to bring the legal order of society into something like harmony with the natural order. What, then, can be more inconsistent with the fundamental principle of the bill than to exclude any district from a share in the representation, for no reason but because that district is, and must always be, one of great importance. This bill was meant to reconcile and unite. Will you frame it in such a manner that it must inevitably produce irritation and discord? This bill was meant to be final in the only rational sense of the word final. Will you frame it in such a way that it must inevitably be shortlived? Is it to be the first business of the first reformed House of Commons to pass a new Reform Bill? Gentlemen opposite have often predicted that the settlement which we are making will not be permanent; and they are now taking the surest way to accomplish their own prediction. I agree with them in disliking change merely as change. I would bear with many things which are indefensible in theory, nay with some things which are grievous in practice, rather than venture on a change in the com-

position of Parliament. But when such a change is necessary, — and that such a change is now necessary is admitted by men of all parties, — then I hold that it ought to be full and effectual. A great crisis may be followed by the complete restoration of health. But no constitution will bear perpetual tampering. If the noble Marquess's amendment should unhappily be carried, it is morally certain that the immense population of Finsbury, of Marylebone, of Lambeth, of the Tower Hamlets, will, importunately and clamorously, demand redress from the reformed Parliament. That Parliament, you tell us, will be much more democratically inclined than the Parliaments of past times. If so, how can you expect that it will resist the urgent demands of a million of people close to its door? These eight seats will be given. More than eight seats will be given. The whole question of Reform will be opened again; and the blame will rest on those who will, by mutilating this great law in an essential part, cause hundreds of thousands who now regard it as a boon to regard it as an outrage.

Sir, our word is pledged. Let us remember the solemn promise which we gave to the nation last October at a perilous conjuncture. That promise was that we would stand firmly by the principles and leading provisions of the Reform Bill. Our sincerity is now brought to the test. One of the leading provisions of the bill is in danger. The question is, not merely whether these districts shall be represented, but whether we will keep the faith which we plighted to our countrymen. Let us be firm. Let us make no concession to those who, having in vain tried to throw the bill out, are now trying to fritter it away. An attempt has been made to induce the Irish members to vote

against the Government. It has been hinted that, perhaps, some of the seats taken from the metropolis may be given to Ireland. Our Irish friends will, I doubt not, remember that the very persons who offer this bribe exerted themselves not long ago to raise a cry against the proposition to give additional members to Belfast, Limerick, Waterford, and Galway. The truth is that our enemies wish only to divide us, and care not by what means. One day they try to excite jealousy among the English by asserting that the plan of the government is too favourable to Ireland. Next day they try to bribe the Irish to desert us, by promising to give something to Ireland at the expense of England. Let us disappoint these cunning men. Let us, from whatever part of the United Kingdom we come, be true to each other and to the good cause. We have the confidence of our country. We have justly earned it. For God's sake let us not throw it away. Other occasions may arise on which honest Reformers may fairly take different sides. But to-night he that is not with us is against us.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 6TH OF FEBRUARY, 1833.

On the twenty-ninth of January, 1833, the first Parliament elected under the Reform Act of 1832 met at Westminster. On the fifth of February, King William the Fourth made a speech from the throne, in which he expressed his hope that the Houses would entrust him with such powers as might be necessary for maintaining order in Ireland and for preserving and strengthening the union between that country and Great Britain. An Address, assuring His Majesty of the concurrence and support of the Commons, was moved by Lord Ormelie and seconded by Mr. John Marshall. Mr. O'Connell opposed the Address, and moved, as an amendment, that the House should resolve itself into a Committee. After a discussion of four nights the amendment was rejected by 428 votes to 40. On the second night of the debate the following Speech was made: —

Last night, Sir, I thought that it would not be necessary for me to take any part in the present debate: but the appeal which has this evening been made to me by my honourable friend, the Member for Lincoln,[1] has forced me to rise. I will, however, postpone the few words which I have to say in defence of my own consistency, till I have expressed my opinion on the much more important subject which is before the House.

My honourable friend tells us that we are now called upon to make a choice between two modes of pacifying

[1] Mr. Edward Lytton Bulwer.

Ireland; that the Government recommends coercion; that the honourable and learned Member for Dublin[1] recommends redress; and that it is our duty to try the effect of redress before we have recourse to coercion. The antithesis is framed with all the ingenuity which is characteristic of my honourable friend's style; but I cannot help thinking that, on this occasion, his ingenuity has imposed on himself, and that he has not sufficiently considered the meaning of the pointed phrase which he used with so much effect. Redress is no doubt a very well sounding word. What can be more reasonable than to ask for redress? What more unjust than to refuse redress? But my honourable friend will perceive, on reflection, that, though he and the honourable and learned Member for Dublin agree in pronouncing the word redress, they agree in nothing else. They utter the same sound; but they attach to it two diametrically opposite meanings. The honourable and learned Member for Dublin means by redress simply the Repeal of the Union. Now, to the Repeal of the Union my honourable friend, the Member for Lincoln, is decidedly adverse. When we get at his real meaning, we find that he is just as unwilling as we are to give the redress which the honourable and learned Member for Dublin demands. Only a small minority of the House will, I hope and believe, vote with that honourable and learned Member; but the minority which thinks with him will be very much smaller.

We have, indeed, been told by some gentlemen, who are not themselves repealers, that the question of Repeal deserves a much more serious consideration than it has yet received. Repeal, they say, is

[1] Mr. O'Connell.

an object on which millions have, however unwisely, set their hearts: and men who speak in the name of millions are not to be coughed down or sneered down. That which a suffering nation regards, rightly or wrongly, as the sole cure for all its distempers, ought not to be treated with levity, but to be the subject of full and solemn debate. All this, Sir, is most true: but I am surprised that this lecture should have been read to us who sit on your right. It would, I apprehend, have been with more propriety addressed to a different quarter. Whose fault is it that we have not yet had, and that there is no prospect of our having, this full and solemn debate? Is it the fault of His Majesty's Ministers? Have not they framed the Speech which their Royal Master delivered from the throne, in such a manner as to invite the grave and searching discussion of the question of Repeal? And has not the invitation been declined? Is it not fresh in our recollection that the honourable and learned Member for Dublin spoke two hours, perhaps three hours, — nobody keeps accurate account of time while he speaks, — but two or three hours without venturing to join issue with us on this subject? In truth, he suffered judgment to go against him by default. We, on this side of the House, did our best to provoke him to the conflict. We called on him to maintain here those doctrines which he had proclaimed elsewhere with so much vehemence, and, I am sorry to be forced to add, with a scurrility unworthy of his parts and eloquence. Never was a challenge more fairly given: but it was not accepted. The great champion of Repeal would not lift our glove. He shrank back; he skulked away; not, assuredly, from distrust of his powers, which have never been more vigorously exerted than in this de-

bate, but evidently from distrust of his cause. I have seldom heard so able a speech as his: I certainly never heard a speech so evasive. From the beginning to the end he studiously avoided saying a single word tending to raise a discussion about that Repeal which, in other places, he constantly affirms to be the sole panacea for all the evils by which his country is afflicted. Nor is this all. Yesterday night he placed on our order book not less than fourteen notices; and of those notices not a single one had any reference to the Union between Great Britain and Ireland. It is therefore evident to me, not only that the honourable and learned gentleman is not now prepared to debate the question in this House, but that he has no intention of debating it in this House at all. He keeps it, and prudently keeps it, for audiences of a very different kind. I am therefore, I repeat, surprised to hear the Government accused of avoiding the discussion of this subject. Why should we avoid a battle in which the bold and skilful captain of the enemy evidently knows that we must be victorious?

One gentleman, though not a repealer, has begged us not to declare ourselves decidedly adverse to repeal till we have studied the petitions which are coming in from Ireland. Really, Sir, this is not a subject on which any public man ought to be now making up his mind. My mind is made up. My reasons are such as, I am certain, no petition from Ireland will confute. Those reasons have long been ready to be produced; and, since we are accused of flinching, I will at once produce them. I am prepared to show that the Repeal of the Union would not remove the political and social evils which afflict Ireland, nay, that it would aggravate almost every one of those evils.

I understand, though I do not approve, the proceedings of poor Wolfe Tone and his confederates. They wished to make a complete separation between Great Britain and Ireland. They wished to establish a Hibernian republic. Their plan was a very bad one; but, to do them justice, it was perfectly consistent; and an ingenious man might defend it by some plausible arguments. But that is not the plan of the honourable and learned Member for Dublin. He assures us that he wishes the connection between the islands to be perpetual. He is for a complete separation between the two Parliaments; but he is for indissoluble union between the Crowns. Nor does the honourable and learned gentleman mean, by an union between the Crowns, such an union as exists between the Crown of this kingdom and the Crown of Hanover. For I need not say that, though the same person is king of Great Britain and of Hanover, there is no more political connection between Great Britain and Hanover than between Great Britain and Hesse or between Great Britain and Bavaria. Hanover may be at peace with a state with which Great Britain is at war. Nay, Hanover may, as a member of the Germanic body, send a contingent of troops to cross bayonets with the King's English footguards. This is not the relation in which the honourable and learned gentleman proposes that Great Britain and Ireland should stand to each other. His plan is, that each of the two countries shall have an independent legislature, but that both shall have the same executive government. Now, is it possible that a mind so acute and so well informed as his should not at once perceive that this plan involves an absurdity, a downright contradiction. Two independent legislatures!

One executive government! How can the thing be? No doubt, if the legislative power were quite distinct from the executive power, England and Ireland might as easily have two legislatures as two Chancellors and two Courts of King's Bench. But though, in books written by theorists, the executive power and the legislative power may be treated as things quite distinct, every man acquainted with the real working of our constitution knows that the two powers are most closely connected, nay, intermingled with each other. During several generations, the whole administration of affairs has been conducted in conformity with the sense of Parliament. About every exercise of the prerogative of the Crown it is the privilege of Parliament to offer advice; and that advice no wise king will ever slight. It is the prerogative of the Sovereign to choose his own servants; but it is impossible for him to maintain them in office unless Parliament will support them. It is the prerogative of the Sovereign to treat with other princes, but it is impossible for him to persist in any scheme of foreign policy which is disagreeable to Parliament. It is the prerogative of the Sovereign to make war; but he cannot raise a battalion or man a frigate without the help of Parliament. The repealers may therefore be refuted out of their own mouths. They say that Great Britain and Ireland ought to have one executive power. But the legislature has a most important share of the executive power. Therefore, by the confession of the repealers themselves, Great Britain and Ireland ought to have one legislature.

Consider for one moment in what a situation the executive government will be placed if you have two independent legislatures, and if those legislatures should

differ, as all bodies which are independent of each other will sometimes differ. Suppose the case of a commercial treaty which is unpopular in England and popular in Ireland. The Irish Parliament expresses its approbation of the terms, and passes a vote of thanks to the negotiator. We at Westminster censure the terms and impeach the negotiator. Or are we to have two foreign offices, one in Downing Street and one in Dublin Castle? Is His Majesty to send to every court in Christendom two diplomatic agents, to thwart each other and to be spies upon each other? It is inconceivable but that, in a very few years, disputes such as can be terminated only by arms must arise between communities so absurdly united and so absurdly disunited. All history confirms this reasoning. Superficial observers have fancied that they had found cases on the other side. But as soon as you examine those cases you will see either that they bear no analogy to the case with which we have to deal, or that they corroborate my argument. The case of Ireland herself has been cited. Ireland, it has been said, had an independent legislature from 1782 to 1800: during eighteen years there were two coequal parliaments under one Crown; and yet there was no collision. Sir, the reason that there was not perpetual collision was, as we all know, that the Irish parliament, though nominally independent, was generally kept in real dependence by means of the foulest corruption that ever existed in any assembly. But it is not true that there was no collision. Before the Irish legislature had been six years independent, a collision did take place, a collision such as might well have produced a civil war. In the year 1788, George the Third was incapacitated by illness from discharging his regal functions. Ac-

cording to the constitution, the duty of making provision for the discharge of those functions devolved on the Parliaments of Great Britain and Ireland. Between the government of Great Britain and the government of Ireland there was, during the interregnum, no connection whatever. The sovereign who was the common head of both governments had virtually ceased to exist: and the two legislatures were no more to each other than this House and the Chamber of Deputies at Paris. What followed? The Parliament of Great Britain resolved to offer the Regency to the Prince of Wales under many important restrictions. The Parliament of Ireland made him an offer of the Regency without any restrictions whatever. By the same right by which the Irish Lords and Commons made that offer, they might, if Mr. Pitt's doctrine be the constitutional doctrine, as I believe it to be, have made the Duke of York or the Duke of Leinster Regent. To this Regent they might have given all the prerogatives of the King. Suppose — no extravagant supposition — that George the Third had not recovered, that the rest of his long life had been passed in seclusion, Great Britain and Ireland would then have been, during thirty-two years, as completely separated as Great Britain and Spain. There would have been nothing in common between the governments, neither executive power nor legislative power. It is plain, therefore, that a total separation between the two islands might, in the natural course of things, and without the smallest violation of the constitution on either side, be the effect of the arrangement recommended by the honourable and learned gentleman, who solemnly declares that he should consider such a separation as the greatest of calamities.

No doubt, Sir, in several continental kingdoms there have been two legislatures, and indeed more than two legislatures, under the same Crown. But the explanation is simple. Those legislatures were of no real weight in the government. Under Lewis the Fourteenth Britanny had its States; Burgundy had its States; and yet there was no collision between the States of Britanny and the States of Burgundy. But why? Because neither the States of Britanny nor the States of Burgundy imposed any real restraint on the arbitrary power of the monarch. So, in the dominions of the House of Hapsburg, there is the semblance of a legislature in Hungary and the semblance of a legislature in the Tyrol: but all the real power is with the Emperor. I do not say that you cannot have one executive power and two mock parliaments, two parliaments which merely transact parish business, two parliaments which exercise no more influence on great affairs of state than the vestry of St. Pancras or the vestry of Marylebone. What I do say, and what common sense teaches, and what all history teaches, is this, that you cannot have one executive power and two real parliaments, two parliaments possessing such powers as the parliament of this country has possessed ever since the Revolution, two parliaments to the deliberate sense of which the Sovereign must conform. If they differ, how can he conform to the sense of both? The thing is as plain as a proposition in Euclid.

It is impossible for me to believe that considerations so obvious and so important should not have occurred to the honourable and learned Member for Dublin. Doubtless they have occurred to him; and therefore it is that he shrinks from arguing the question here. Nay, even when he harangues more credulous assem-

blies on this subject, he carefully avoids precise explanations; and the hints which sometimes escape him are not easily to be reconciled with each other. On one occasion, if the newspapers are to be trusted, he declared that his object was to establish a federal union between Great Britain and Ireland. A local parliament, it seems, is to sit at Dublin, and to send deputies to an imperial parliament which is to sit at Westminster. The honourable and learned gentleman thinks, I suppose, that in this way he evades the difficulties which I have pointed out. But he deceives himself. If, indeed, his local legislature is to be subject to his imperial legislature, if his local legislature is to be merely what the Assembly of Antigua or Barbadoes is, or what the Irish Parliament was before 1782, the danger of collision is no doubt removed: but what, on the honourable and learned gentleman's own principles, would Ireland gain by such an arrangement? If, on the other hand, his local legislature is to be for certain purposes independent, you have again the risk of collision. Suppose that a difference of opinion should arise between the Imperial Parliament and the Irish Parliament as to the limits of their powers, who is to decide between them? A dispute between the House of Commons and the House of Lords is bad enough. Yet in that case the Sovereign can, by a high exercise of his prerogative, produce harmony. He can send us back to our constituents; and, if that expedient fails, he can create more lords. When, in 1705, the dispute between the Houses about the Aylesbury men ran high, Queen Anne restored concord by dismissing the Parliament. Seven years later she put an end to another conflict between the Houses by making twelve peers in one day. But who is to arbitrate between two representative bodies chosen

by different constituent bodies? Look at what is now passing in America. Of all federal constitutions that of the United States is the best. It was framed by a convention which contained many wise and experienced men, and over which Washington presided. Yet there is a debatable ground on the frontier which separates the functions of Congress from those of the state legislatures. A dispute as to the exact boundary has lately arisen. Neither party seems disposed to yield: and, if both persist, there can be no umpire but the sword.

For my part, Sir, I have no hesitation in saying that I should very greatly prefer the total separation which the honourable and learned gentleman professes to consider as a calamity, to the partial separation which he has taught his countrymen to regard as a blessing. If, on a fair trial, it be found that Great Britain and Ireland cannot exist happily together as parts of one empire, in God's name let them separate. I wish to see them joined as the limbs of a well formed body are joined. In such a body the members assist each other: they are nourished by the same food: if one member suffer, all suffer with it: if one member rejoice, all rejoice with it. But I do not wish to see the countries united, like those wretched twins from Siam who were exhibited here a little while ago, by an unnatural ligament which made each the constant plague of the other, always in each other's way, more helpless than others because they had twice as many hands, slower than others because they had twice as many legs, sympathising with each other only in evil, not feeling each other's pleasures, not supported by each other's aliment, but tormented by each other's infirmities, and certain to perish miserably by each other's dissolution.

Ireland has undoubtedly just causes of complaint.

We heard those causes recapitulated last night by the honourable and learned Member, who tells us that he represents not Dublin alone, but Ireland, and that he stands between his country and civil war. I do not deny that most of the grievances which he recounted exist, that they are serious, and that they ought to be remedied as far as it is in the power of legislation to remedy them. What I do deny is that they were caused by the Union, and that the Repeal of the Union would remove them. I listened attentively while the honourable and learned gentleman went through that long and melancholy list: and I am confident that he did not mention a single evil which was not a subject of bitter complaint while Ireland had a domestic parliament. Is it fair, is it reasonable in the honourable gentleman to impute to the Union evils which, as he knows better than any other man in this house, existed long before the Union? *Post hoc: ergo, propter hoc* is not always sound reasoning. But *ante hoc: ergo, non propter hoc* is unanswerable. The old rustic who told Sir Thomas More that Tenterden steeple was the cause of Godwin sands reasoned much better than the honourable and learned gentleman. For it was not till after Tenterden steeple was built that the frightful wrecks on the Godwin sands were heard of. But the honourable and learned gentleman would make Godwin sands the cause of Tenterden steeple. Some of the Irish grievances which he ascribes to the Union are not only older than the Union, but are not peculiarly Irish. They are common to England, Scotland, and Ireland; and it was in order to get rid of them that we, for the common benefit of England, Scotland, and Ireland, passed the Reform Bill last year. Other grievances which the honourable and learned gen-

tleman mentioned are doubtless local: but is there to be a local legislature wherever there is a local grievance? Wales has had local grievances. We all remember the complaints which were made a few years ago about the Welsh judicial system; but did anybody therefore propose that Wales should have a distinct parliament? Cornwall has some local grievances; but does anybody propose that Cornwall shall have its own House of Lords and its own House of Commons? Leeds has local grievances. The majority of my constituents distrust and dislike the municipal government to which they are subject; they therefore call loudly on us for corporation reform: but they do not ask us for a separate legislature. Of this I am quite sure, that every argument which has been urged for the purpose of showing that Great Britain and Ireland ought to have two distinct parliaments may be urged with far greater force for the purpose of showing that the north of Ireland and the south of Ireland ought to have two distinct parliaments. The House of Commons of the United Kingdom, it has been said, is chiefly elected by Protestants, and therefore cannot be trusted to legislate for Catholic Ireland. If this be so, how can an Irish House of Commons, chiefly elected by Catholics, be trusted to legislate for Protestant Ulster? It is perfectly notorious that theological antipathies are stronger in Ireland than here. I appeal to the honourable and learned gentleman himself. He has often declared that it is impossible for a Roman Catholic, whether prosecutor or culprit, to obtain justice from a jury of Orangemen. It is indeed certain that, in blood, religion, language, habits, character, the population of some of the northern counties of Ireland has much more in common with the population of England and Scotland

than with the population of Munster and Connaught. I defy the honourable and learned Member, therefore, to find a reason for having a parliament at Dublin which will not be just as good a reason for having another parliament at Londonderry.

Sir, in showing, as I think I have shown, the absurdity of this cry for Repeal, I have in a great measure vindicated myself from the charge of inconsistency which has been brought against me by my honourable friend, the Member for Lincoln. It is very easy to bring a volume of Hansard to the House, to read a few sentences of a speech made in very different circumstances, and to say, "Last year you were for pacifying England by concession: this year you are for pacifying Ireland by coercion. How can you vindicate your consistency?" Surely my honourable friend cannot but know that nothing is easier than to write a theme for severity, for clemency, for order, for liberty, for a contemplative life, for an active life, and so on. It was a common exercise in the ancient schools of rhetoric to take an abstract question, and to harangue first on one side and then on the other. The question, Ought popular discontents to be quieted by concession or coercion? would have been a very good subject for oratory of this kind. There is no lack of commonplaces on either side. But when we come to the real business of life, the value of these commonplaces depends entirely on the particular circumstances of the case which we are discussing. Nothing is easier than to write a treatise proving that it is lawful to resist extreme tyranny. Nothing is easier than to write a treatise setting forth the wickedness of wantonly bringing on a great society the miseries inseparable from revolution, the bloodshed, the spolia-

tion, the anarchy. Both treatises may contain much that is true; but neither will enable us to decide whether a particular insurrection is or is not justifiable without a close examination of the facts. There is surely no inconsistency in speaking with respect of the memory of Lord Russell and with horror of the crime of Thistlewood; and, in my opinion, the conduct of Russell and the conduct of Thistlewood did not differ more widely than the cry for Parliamentary Reform and the cry for the Repeal of the Union. The Reform Bill I believe to be a blessing to the nation. Repeal I know to be a mere delusion. I know it to be impracticable: and I know that, if it were practicable, it would be pernicious to every part of the empire, and utterly ruinous to Ireland. Is it not then absurd to say that, because I wished last year to quiet the English people by giving them that which was beneficial to them, I am therefore bound in consistency to quiet the Irish people this year by giving them that which will be fatal to them? I utterly deny, too, that, in consenting to arm the government with extraordinary powers for the purpose of repressing disturbances in Ireland, I am guilty of the smallest inconsistency. On what occasion did I ever refuse to support any government in repressing disturbances? It is perfectly true that, in the debates on the Reform Bill, I imputed the tumults and outrages of 1830 to misrule. But did I ever say that those tumults and outrages ought to be tolerated? I did attribute the Kentish riots, the Hampshire riots, the burning of corn stacks, the destruction of threshing machines, to the obstinacy with which the Ministers of the Crown had refused to listen to the demands of the people. But did I ever say that the rioters ought not to be imprisoned,

that the incendiaries ought not to be hanged? I did ascribe the disorders of Nottingham and the fearful sacking of Bristol to the unwise rejection of the Reform Bill by the Lords. But did I ever say that such excesses as were committed at Nottingham and Bristol ought not to be put down, if necessary, by the sword?

I would act towards Ireland on the same principles on which I acted towards England. In Ireland, as in England, I would remove every just cause of complaint; and in Ireland, as in England, I would support the Government in preserving the public peace. What is there inconsistent in this? My honourable friend seems to think that no person who believes that disturbances have been caused by maladministration can consistently lend his help to put down those disturbances. If that be so, the honourable and learned Member for Dublin is quite as inconsistent as I am; indeed, much more so; for he thinks very much worse of the Government than I do; and yet he declares himself willing to assist the Government in quelling the tumults which, as he assures us, its own misconduct is likely to produce. He told us yesterday that our harsh policy might perhaps goad the unthinking populace of Ireland into insurrection; and he added that, if there should be an insurrection, he should, while execrating us as the authors of all the mischief, be found in our ranks, and should be ready to support us in everything that might be necessary for the restoration of order. As to this part of the subject, there is no difference in principle between the honourable and learned gentleman and myself. In his opinion, it is probable that a time may soon come when vigorous coercion may be necessary, and when it may be the

duty of every friend of Ireland to coöperate in the work of coercion. In my opinion, that time has already come. The grievances of Ireland are doubtless great, so great that I never would have connected myself with a Government which I did not believe to be intent on redressing those grievances. But am I, because the grievances of Ireland are great, and ought to be redressed, to abstain from redressing the worst grievance of all? Am I to look on quietly while the laws are insulted by a furious rabble, while houses are plundered and burned, while my peaceable fellow subjects are butchered? The distribution of Church property, you tell us, is unjust. Perhaps I agree with you. But what then? To what purpose is it to talk about the distribution of Church property, while no property is secure? Then you try to deter us from putting down robbery, arson, and murder, by telling us that if we resort to coercion we shall raise a civil war. We are past that fear. Recollect that, in one county alone, there have been within a few weeks sixty murders or assaults with intent to murder, and six hundred burglaries. Since we parted last summer, the slaughter in Ireland has exceeded the slaughter of a pitched battle: the destruction of property has been as great as would have been caused by the storming of three or four towns. Civil war, indeed! I would rather live in the midst of any civil war that we have had in England during the last two hundred years than in some parts of Ireland at the present moment. Rather, much rather, would I have lived on the line of march of the Pretender's army in 1745 than in Tipperary now. It is idle to threaten us with civil war; for we have it already; and it is because we are resolved to put an end to it that we are called base,

and brutal, and bloody. Such are the epithets which the honourable and learned Member for Dublin thinks it becoming to pour forth against the party to which he owes every political privilege that he enjoys. He need not fear that any member of that party will be provoked into a conflict of scurrility. Use makes even sensitive minds callous to invective; and, copious as his vocabulary is, he will not easily find in it any foul name which has not been many times applied to those who sit around me, on account of the zeal and steadiness with which they supported the emancipation of the Roman Catholics. His reproaches are not more stinging than the reproaches which, in times not very remote, we endured unflinchingly in his cause. I can assure him that men who faced the cry of No Popery are not likely to be scared by the cry of Repeal. The time will come when history will do justice to the Whigs of England, and will faithfully relate how much they did and suffered for Ireland; how, for the sake of Ireland, they quitted office in 1807; how, for the sake of Ireland, they remained out of office more than twenty years, braving the frowns of the Court, braving the hisses of the multitude, renouncing power, and patronage, and salaries, and peerages, and garters, and yet not obtaining in return even a little fleeting popularity. I see on the benches near me men who might, by uttering one word against Catholic Emancipation, nay, by merely abstaining from uttering a word in favour of Catholic Emancipation, have been returned to this house without difficulty or expense, and who, rather than wrong their Irish fellow subjects, were content to relinquish all the objects of their honourable ambition, and to retire into private life with conscience and fame untarnished. As to one eminent person,

who seems to be regarded with especial malevolence by those who ought never to mention his name without reverence and gratitude, I will say only this: that the loudest clamour which the honourable and learned gentleman can excite against Lord Grey will be trifling when compared with the clamour which Lord Grey withstood in order to place the honourable and learned gentleman where he now sits. Though a young member of the Whig party, I will venture to speak in the name of the whole body. I tell the honourable and learned gentleman, that the same spirit which sustained us in a just contest for him will sustain us in an equally just contest against him. Calumny, abuse, royal displeasure, popular fury, exclusion from office, exclusion from Parliament, we were ready to endure them all, rather than that he should be less than a British subject. We never will suffer him to be more.

I stand here, Sir, for the first time, as the representative of a new constituent body, one of the largest, most prosperous, and most enlightened towns in the kingdom. The electors of Leeds, believing that at this time the service of the people is not incompatible with the service of the Crown, have sent me to this house charged, in the language of His Majesty's writ, to do and consent, in their name and in their behalf, to such things as shall be proposed in the great Council of the nation. In the name, then, and on the behalf of my constituents, I give my full assent to that part of the Address wherein the House declares its resolution to maintain inviolate, by the help of God, the connection between Great Britain and Ireland, and to entrust to the Sovereign such powers as shall be necessary to secure property, to restore order, and to preserve the integrity of the empire.

A SPEECH

DELIVERED IN A COMMITTEE OF THE WHOLE HOUSE OF COMMONS ON THE 17TH OF APRIL, 1833

On the seventeenth of April, 1833, the House of Commons resolved itself into a Committee to consider of the civil disabilities of the Jews. Mr. Warburton took the chair. Mr. Robert Grant moved the following resolution:

"That it is the opinion of this Committee that it is expedient to remove all civil disabilities at present existing with respect to His Majesty's subjects professing the Jewish religion, with the like exceptions as are provided with respect to His Majesty's subjects professing the Roman Catholic religion."

The resolution passed without a division, after a warm debate, in the course of which the following Speech was made:—

MR. WARBURTON,—

I recollect, and my honourable friend, the Member for the University of Oxford, will recollect, that, when this subject was discussed three years ago, it was remarked, by one whom we both loved and whom we both regret, that the strength of the case of the Jews was a serious inconvenience to their advocate, for that it was hardly possible to make a speech for them without wearying the audience by repeating truths which were universally admitted. If Sir James Mackintosh felt this difficulty when the question was first brought forward in this House, I may well despair of being able now to offer any arguments which have a pretence to novelty.

My honourable friend, the Member for the University of Oxford, began his speech by declaring that he had no intention of calling in question the principles of religious liberty. He utterly disclaims persecution, that is to say, persecution as defined by himself. It would, in his opinion, be persecution to hang a Jew, or to flay him, or to draw his teeth, or to imprison him, or to fine him; for every man who conducts himself peaceably has a right to his life and his limbs, to his personal liberty and his property. But it is not persecution, says my honourable friend, to exclude any individual or any class from office; for nobody has a right to office: in every country official appointments must be subject to such regulations as the supreme authority may choose to make; nor can any such regulations be reasonably complained of by any member of the society as unjust. He who obtains an office obtains it, not as matter of right, but as matter of favour. He who does not obtain an office is not wronged; he is only in that situation in which the vast majority of every community must necessarily be. There are in the United Kingdom five and twenty million Christians without places: and, if they do not complain, why should five and twenty thousand Jews complain of being in the same case? In this way my honourable friend has convinced himself that, as it would be most absurd in him and me to say that we are wronged because we are not Secretaries of State, so it is most absurd in the Jews to say they are wronged because they are, as a people, excluded from public employment.

Now, surely my honourable friend cannot have considered to what conclusions his reasoning leads. Those conclusions are so monstrous that he would, I am certain, shrink from them. Does he really mean that it

would not be wrong in the legislature to enact that no man should be a judge unless he weighed twelve stone, or that no man should sit in parliament unless he were six feet high? We are about to bring in a bill for the government of India. Suppose that we were to insert in that bill a clause providing that no graduate of the University of Oxford should be Governor General or Governor of any Presidency, would not my honourable friend cry out against such a clause as most unjust to the learned body which he represents? And would he think himself sufficiently answered by being told, in his own words, that the appointment to office is a mere matter of favour, and that to exclude an individual or a class from office is no injury? Surely, on consideration, he must admit that official appointments ought not to be subject to regulations purely arbitrary, to regulations for which no reason can be given but mere caprice, and that those who would exclude any class from public employment are bound to show some special reason for the exclusion.

My honourable friend has appealed to us as Christians. Let me then ask him how he understands that great commandment which comprises the law and the prophets. Can we be said to do unto others as we would that they should do unto us if we wantonly inflict on them even the smallest pain? As Christians, surely we are bound to consider first, whether, by excluding the Jews from all public trust, we give them pain; and, secondly, whether it be necessary to give them that pain in order to avert some greater evil. That by excluding them from public trust we inflict pain on them my honourable friend will not dispute. As a Christian, therefore, he is bound to relieve them from that pain unless he can show, what I am sure he

has not yet shown, that it is necessary to the general good that they should continue to suffer.

But where, he says, are you to stop, if once you admit into the House of Commons people who deny the authority of the Gospels? Will you let in a Mussulman? Will you let in a Parsee? Will you let in a Hindoo, who worships a lump of stone with seven heads? I will answer my honourable friend's question by another. Where does he mean to stop? Is he ready to roast unbelievers at slow fires? If not, let him tell us why: and I will engage to prove that his reason is just as decisive against the intolerance which he thinks a duty as against the intolerance which he thinks a crime. Once admit that we are bound to inflict pain on a man because he is not of our religion; and where are you to stop? Why stop at the point fixed by my honourable friend rather than at the point fixed by the honourable Member for Oldham,[1] who would make the Jews incapable of holding land? And why stop at the point fixed by the honourable Member for Oldham rather than at the point which would have been fixed by a Spanish Inquisitor of the sixteenth century? When once you enter on a course of persecution, I defy you to find any reason for making a halt till you have reached the extreme point. When my honourable friend tells us that he will allow the Jews to possess property to any amount, but that he will not allow them to possess the smallest political power, he holds contradictory language. Property is power. The honourable Member for Oldham reasons better than my honourable friend. The honourable Member for Oldham sees very clearly that it is impossible to deprive a man of political power if you suffer him to be the pro-

[1] Mr. Cobbett.

prietor of half a county, and therefore very consistently proposes to confiscate the landed estates of the Jews. But even the honourable Member for Oldham does not go far enough. He has not proposed to confiscate the personal property of the Jews. Yet it is perfectly certain that any Jew who has a million may easily make himself very important in the state. By such steps we pass from official power to landed property, and from landed property to personal property, and from property to liberty, and from liberty to life. In truth those persecutors who use the rack and the stake have much to say for themselves. They are convinced that their end is good; and it must be admitted that they employ means which are not unlikely to attain the end. Religious dissent has repeatedly been put down by sanguinary persecution. In that way the Albigenses were put down. In that way Protestantism was suppressed in Spain and Italy, so that it has never since reared its head. But I defy anybody to produce an instance in which disabilities such as we are now considering have produced any other effect than that of making the sufferers angry and obstinate. My honourable friend should either persecute to some purpose, or not persecute at all. He dislikes the word persecution, I know. He will not admit that the Jews are persecuted. And yet I am confident that he would rather be sent to the King's Bench Prison for three months, or be fined a hundred pounds, than be subject to the disabilities under which the Jews lie. How can he then say that to impose such disabilities is not persecution, and that to fine and imprison is persecution? All his reasoning consists in drawing arbitrary lines. What he does not wish to inflict he calls persecution. What he does wish to inflict he will not call persecution.

What he takes from the Jews he calls political power. What he is too good-natured to take from the Jews he will not call political power. The Jew must not sit in Parliament: but he may be the proprietor of all the ten pound houses in a borough. He may have more fifty pound tenants than any peer in the kingdom. He may give the voters treats to please their palates, and hire bands of gipsies to break their heads, as if he were a Christian and a Marquess. All the rest of this system is of a piece. The Jew may be a juryman, but not a judge. He may decide issues of fact, but not issues of law. He may give a hundred thousand pounds damages; but he may not in the most trivial case grant a new trial. He may rule the money market: he may influence the exchanges: he may be summoned to congresses of Emperors and Kings. Great potentates, instead of negotiating a loan with him by tying him in a chair and pulling out his grinders, may treat with him as with a great potentate, and may postpone the declaring of war or the signing of a treaty till they have conferred with him. All this is as it should be: but he must not be a Privy Councillor. He must not be called Right Honourable, for that is political power. And who is it that we are trying to cheat in this way? Even Omniscience. Yes, Sir; we have been gravely told that the Jews are under the divine displeasure, and that if we give them political power God will visit us in judgment. Do we then think that God cannot distinguish between substance and form? Does not He know that, while we withhold from the Jews the semblance and name of political power, we suffer them to possess the substance? The plain truth is that my honourable friend is drawn in one direction by his opinions, and in a directly opposite direction by his ex-

cellent heart. He halts between two opinions. He tries to make a compromise between principles which admit of no compromise. He goes a certain way in intolerance. Then he stops, without being able to give a reason for stopping. But I know the reason. It is his humanity. Those who formerly dragged the Jew at a horse's tail, and singed his beard with blazing furze bushes, were much worse men than my honourable friend; but they were more consistent than he.

It has been said that it would be monstrous to see a Jew judge try a man for blasphemy. In my opinion it is monstrous to see any judge try a man for blasphemy under the present law. But, if the law on that subject were in a sound state, I do not see why a conscientious Jew might not try a blasphemer. Every man, I think, ought to be at liberty to discuss the evidences of religion; but no man ought to be at liberty to force on the unwilling ears and eyes of others sounds and sights which must cause annoyance and irritation. The distinction is clear. I think it wrong to punish a man for selling Paine's Age of Reason in a back shop to those who choose to buy, or for delivering a Deistical lecture in a private room to those who choose to listen. But if a man exhibits at a window in the Strand a hideous caricature of that which is an object of awe and adoration to nine hundred and ninety-nine out of every thousand of the people who pass up and down that great thoroughfare; if a man, in a place of public resort, applies opprobrious epithets to names held in reverence by all Christians; such a man ought, in my opinion, to be severely punished, not for differing from us in opinion, but for committing a nuisance which gives us pain and disgust. He is no more entitled to outrage our feelings by obtruding his

impiety on us, and to say that he is exercising his right of discussion, than to establish a yard for butchering horses close to our houses and to say that he is exercising his right of property, or to run naked up and down the public streets, and to say that he is exercising his right of locomotion. He has a right of discussion, no doubt, as he has a right of property and a right of locomotion. But he must use all his rights so as not to infringe the rights of others.

These, Sir, are the principles on which I would frame the law of blasphemy; and, if the law were so framed, I am at a loss to understand why a Jew might not enforce it as well as a Christian. I am not a Roman Catholic; but if I were a judge at Malta, I should have no scruple about punishing a bigoted Protestant who should burn the Pope in effigy before the eyes of thousands of Roman Catholics. I am not a Mussulman; but if I were a judge in India, I should have no scruple about punishing a Christian who should pollute a mosque. Why, then, should I doubt that a Jew, raised by his ability, learning, and integrity to the judicial bench, would deal properly with any person who, in a Christian country, should insult the Christian religion?

But, says my honourable friend, it has been prophesied that the Jews are to be wanderers on the face of the earth, and that they are not to mix on terms of equality with the people of the countries in which they sojourn. Now, Sir, I am confident that I can demonstrate that this is not the sense of any prophecy which is part of Holy Writ. For it is an undoubted fact that, in the United States of America, Jewish citizens do possess all the privileges possessed by Christian citizens. Therefore, if the prophecies mean that

the Jews never shall, during their wanderings, be admitted by other nations to equal participation of political rights, the prophecies are false. But the prophecies are certainly not false. Therefore their meaning cannot be that which is attributed to them by my honourable friend.

Another objection which has been made to this motion is that the Jews look forward to the coming of a great deliverer, to their return to Palestine, to the rebuilding of their temple, to the revival of their ancient worship, and that therefore they will always consider England, not their country, but merely as their place of exile. But, surely, Sir, it would be the grossest ignorance of human nature to imagine that the anticipation of an event which is to happen at some time altogether indefinite, of an event which has been vainly expected during many centuries, of an event which even those who confidently expect that it will happen do not confidently expect that they or their children or their grandchildren will see, can ever occupy the minds of men to such a degree as to make them regardless of what is near and present and certain. Indeed, Christians, as well as Jews, believe that the existing order of things will come to an end. Many Christians believe that Jesus will visibly reign on earth during a thousand years. Expositors of prophecy have gone so far as to fix the year when the Millennial period is to commence. The prevailing opinion is, I think, in favour of the year 1866; but, according to some commentators, the time is close at hand. Are we to exclude all millennarians from parliament and office, on the ground that they are impatiently looking forward to the miraculous monarchy which is to supersede the present dynasty and the

present constitution of England, and that therefore they cannot be heartily loyal to King William?

In one important point, Sir, my honourable friend, the Member for the University of Oxford, must acknowledge that the Jewish religion is of all erroneous religions the least mischievous. There is not the slightest chance that the Jewish religion will spread. The Jew does not wish to make proselytes. He may be said to reject them. He thinks it almost culpable in one who does not belong to his race to presume to belong to his religion. It is therefore not strange that a conversion from Christianity to Judaism should be a rarer occurrence than a total eclipse of the sun. There was one distinguished convert in the last century, Lord George Gordon; and the history of his conversion deserves to be remembered. For if ever there was a proselyte of whom a proselytising sect would have been proud, it was Lord George; not only because he was a man of high birth and rank; not only because he had been a member of the legislature; but also because he had been distinguished by the intolerance, nay, the ferocity, of his zeal for his own form of Christianity. But was he allured into the Synagogue? Was he even welcomed to it? No, Sir; he was coldly and reluctantly permitted to share the reproach and suffering of the chosen people; but he was sternly shut out from their privileges. He underwent the painful rite which their law enjoins. But when, on his deathbed, he begged hard to be buried among them according to their ceremonial, he was told that his request could not be granted. I understand that cry of "Hear." It reminds me that one of the arguments against this motion is that the Jews are an unsocial people, that they draw close to each other, and stand

aloof from strangers. Really, Sir, it is amusing to compare the manner in which the question of Catholic emancipation was argued formerly by some gentlemen with the manner in which the question of Jew emancipation is argued by the same gentlemen now. When the question was about Catholic emancipation, the cry was, "See how restless, how versatile, how encroaching, how insinuating, is the spirit of the Church of Rome. See how her priests compass earth and sea to make one proselyte, how indefatigably they toil, how attentively they study the weak and strong parts of every character, how skilfully they employ literature, arts, sciences, as engines for the propagation of their faith. You find them in every region and under every disguise, collating manuscripts in the Bodleian, fixing telescopes in the Observatory of Pekin, teaching the use of the plough and the spinning wheel to the savages of Paraguay. Will you give power to the members of a Church so busy, so aggressive, so insatiable?" Well, now the question is about people who never try to seduce any stranger to join them, and who do not wish anybody to be of their faith who is not also of their blood. And now you exclaim, "Will you give power to the members of a sect which remains sullenly apart from other sects, which does not invite, nay, which hardly even admits, neophytes?" The truth is, that bigotry will never want a pretence. Whatever the sect be which it is proposed to tolerate, the peculiarities of that sect will, for the time, be pronounced by intolerant men to be the most odious and dangerous that can be conceived. As to the Jews, that they are unsocial as respects religion is true; and so much the better: for surely, as Christians, we cannot wish that they should bestir themselves to per-

vert us from our own faith. But that the Jews would be unsocial members of the civil community, if the civil community did its duty by them, has never been proved. My right honourable friend, who made the motion which we are discussing has produced a great body of evidence to show that they have been grossly misrepresented; and that evidence has not been refuted by my honourable friend, the Member for the University of Oxford. But what if it were true that the Jews are unsocial? What if it were true that they do not regard England as their country? Would not the treatment which they have undergone explain and excuse their antipathy to the society in which they live? Has not similar antipathy often been felt by persecuted Christians to the society which persecuted them? While the bloody code of Elizabeth was enforced against the English Roman Catholics, what was the patriotism of Roman Catholics? Oliver Cromwell said that in his time they were Espaniolised. At a later period it might have been said that they were Gallicised. It was the same with the Calvinists. What more deadly enemies had France in the days of Lewis the Fourteenth than the persecuted Huguenots? But would any rational man infer from these facts that either the Roman Catholic as such, or the Calvinist as such, is incapable of loving the land of his birth? If England were now invaded by Roman Catholics, how many English Roman Catholics would go over to the invader? If France were now attacked by a Protestant enemy, how many French Protestants would lend him help? Why not try what effect would be produced on the Jews by that tolerant policy which has made the English Roman Catholic a good Englishman, and the French Calvinist a good Frenchman?

Another charge has been brought against the Jews, not by my honourable friend, the Member for the University of Oxford, — he has too much learning and too much good feeling to make such a charge, — but by the honourable Member for Oldham, who has, I am sorry to see, quitted his place. The honourable Member for Oldham tells us that the Jews are naturally a mean race, a sordid race, a moneygetting race; that they are averse to all honourable callings; that they neither sow nor reap; that they have neither flocks nor herds; that usury is the only pursuit for which they are fit; that they are destitute of all elevated and amiable sentiments. Such, Sir, has in every age been the reasoning of bigots. They never fail to plead in justification of persecution the vices which persecution has engendered. England has been to the Jews less than half a country; and we revile them because they do not feel for England more than a half patriotism. We treat them as slaves, and wonder that they do not regard us as brethren. We drive them to mean occupations, and then reproach them for not embracing honourable professions. We long forbade them to possess land; and we complain that they chiefly occupy themselves in trade. We shut them out from all the paths of ambition; and then we despise them for taking refuge in avarice. During many ages we have, in all our dealings with them, abused our immense superiority of force; and then we are disgusted because they have recourse to that cunning which is the natural and universal defence of the weak against the violence of the strong. But were they always a mere moneychanging, moneygetting, moneyhoarding race? Nobody knows better than my honourable friend, the Member for the University of Oxford,

that there is nothing in their national character which unfits them for the highest duties of citizens. He knows that, in the infancy of civilisation, when our island was as savage as New Guinea, when letters and arts were still unknown to Athens, when scarcely a thatched hut stood on what was afterwards the site of Rome, this contemned people had their fenced cities and cedar palaces, their splendid Temple, their fleets of merchant ships, their schools of sacred learning, their great statesmen and soldiers, their natural philosophers, their historians and their poets. What nation ever contended more manfully against overwhelming odds for its independence and religion? What nation ever, in its last agonies, gave such signal proofs of what may be accomplished by a brave despair? And if, in the course of many centuries, the oppressed descendants of warriors and sages have degenerated from the qualities of their fathers, if, while excluded from the blessings of law, and bowed down under the yoke of slavery, they have contracted some of the vices of outlaws and of slaves, shall we consider this as matter of reproach to them? Shall we not rather consider it as matter of shame and remorse to ourselves? Let us do justice to them. Let us open to them the door of the House of Commons. Let us open to them every career in which ability and energy can be displayed. Till we have done this, let us not presume to say that there is no genius among the countrymen of Isaiah, no heroism among the descendants of the Maccabees.

Sir, in supporting the motion of my honourable friend, I am, I firmly believe, supporting the honour and the interests of the Christian religion. I should think that I insulted that religion if I said that it can-

not stand unaided by intolerant laws. Without such laws it was established, and without such laws it may be maintained. It triumphed over the superstitions of the most refined and of the most savage nations, over the graceful mythology of Greece and the bloody idolatry of the northern forests. It prevailed over the power and policy of the Roman empire. It tamed the barbarians by whom that empire was overthrown. But all these victories were gained not by the help of intolerance, but in spite of the opposition of intolerance. The whole history of Christianity proves that she has little indeed to fear from persecution as a foe, but much to fear from persecution as an ally. May she long continue to bless our country with her benignant influence, strong in her sublime philosophy, strong in her spotless morality, strong in those internal and external evidences to which the most powerful and comprehensive of human intellects have yielded assent, the last solace of those who have outlived every earthly hope, the last restraint of those who are raised above every earthly fear! But let not us, mistaking her character and her interests, fight the battle of truth with the weapons of error, and endeavour to support by oppression that religion which first taught the human race the great lesson of universal charity.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 10TH OF JULY, 1833.

On Wednesday, the tenth of July, 1833, Mr. Charles Grant, President of the Board of Control, moved that the Bill for effecting an arrangement with the India Company, and for the better government of His Majesty's Indian territories, should be read a second time. The motion was carried without a division, but not without a long debate, in the course of which the following Speech was made: —

HAVING, while this bill was in preparation, enjoyed the fullest and kindest confidence of my right honourable friend, the President of the Board of Control, agreeing with him completely in all those views which on a former occasion he so luminously and eloquently developed, having shared his anxieties, and feeling that in some degree I share his responsibility, I am naturally desirous to obtain the attention of the House while I attempt to defend the principles of the proposed arrangement. I wish that I could promise to be very brief; but the subject is so extensive that I will only promise to condense what I have to say as much as I can.

I rejoice, Sir, that I am completely dispensed, by the turn which our debates have taken, from the necessity of saying anything in favour of one part of our plan, the opening of the China trade. No voice, I believe, has yet been raised here in support of the monopoly. On that subject all public men of all parties seem to

be agreed. The resolution proposed by the Ministers has received the unanimous assent of both Houses, and the approbation of the whole kingdom. I will not, therefore, Sir, detain you by vindicating what no gentleman has yet ventured to attack, but will proceed to call your attention to those effects which this great commercial revolution necessarily produced on the system of Indian government and finance.

The China trade is to be opened. Reason requires this. Public opinion requires it. The Government of the Duke of Wellington felt the necessity as strongly as the Government of Lord Grey. No Minister, Whig or Tory, could have been found to propose a renewal of the monopoly. No parliament, reformed or unreformed, would have listened to such a proposition. But though the opening of the trade was a matter concerning which the public had long made up its mind, the political consequences which must necessarily follow from the opening of the trade seem to me to be even now little understood. The language which I have heard in almost every circle where the subject was discussed was this: "Take away the monopoly, and leave the government of India to the Company:" a very short and convenient way of settling one of the most complicated questions that ever a legislature had to consider. The honourable Member for Sheffield,[1] though not disposed to retain the Company as an organ of government, has repeatedly used language which proves that he shares in the general misconception. The fact is that the abolition of the monopoly rendered it absolutely necessary to make a fundamental change in the constitution of that great Corporation.

The Company had united in itself two characters,

[1] Mr. Buckingham.

the character of trader and the character of sovereign. Between the trader and the sovereign there was a long and complicated account, almost every item of which furnished matter for litigation. While the monopoly continued, indeed, litigation was averted. The effect of the monopoly was, to satisfy the claims both of commerce and of territory, at the expense of a third party, the English people ; to secure at once funds for the dividend of the stockholder and funds for the government of the Indian Empire, by means of a heay tax on the tea consumed in this country. But, when the third party would no longer bear this charge, all the great financial questions which had, at the cost of that third party, been kept in abeyance, were opened in an instant. The connection between the Company in its mercantile capacity, and the same Company in its political capacity, was dissolved. Even if the Company were permitted, as has been suggested, to govern India and at the same time to trade with China, no advances would be made from the profits of its Chinese trade for the support of its Indian government. It was in consideration of the exclusive privilege that the Company had hitherto been required to make those advances ; it was by the exclusive privilege that the Company had been enabled to make them. When that privilege was taken away, it would be unreasonable in the Legislature to impose such an obligation, and impossible for the Company to fulfil it. The whole system of loans from commerce to territory, and repayments from territory to commerce, must cease. Each party must rest altogether on its own resources. It was therefore absolutely necessary to ascertain what resources each party possessed, to bring the long and intricate account between them to a close,

and to assign to each a fair portion of assets and liabilities. There was vast property. How much of that property was applicable to purposes of state? How much was applicable to a dividend? There were debts to the amount of many millions. Which of these were the debts of the government that ruled at Calcutta? Which of the great mercantile house that bought tea at Canton? Were the creditors to look to the land revenues of India for their money? Or were they entitled to put executions into the warehouses behind Bishopsgate Street?

There were two ways of settling these questions; adjudication and compromise. The difficulties of adjudication were great; I think insuperable. Whatever acuteness and diligence could do has been done. One person in particular, whose talents and industry peculiarly fitted him for such investigations, and of whom I can never think without regret, Mr. Hyde Villiers, devoted himself to the examination with an ardour and a perseverance which, I believe, shortened a life most valuable to his country and to his friends. The assistance of the most skilful accountants has been called in. But the difficulties are such as no accountant, however skilful, could possibly remove. The difficulties are not arithmetical, but political. They arise from the constitution of the Company, from the long and intimate union of the commercial and imperial characters in one body. Suppose that the treasurer of a charity were to mix up the money which he receives on account of the charity with his own private rents and dividends, to pay the whole into his bank to his own private account, to draw it out again by cheques in exactly the same form when he wanted it for his private expenses, and when he wanted it for the purposes of his public trust.

Suppose that he were to continue to act thus till he was himself ignorant whether he were in advance or in arrear; and suppose that many years after his death a question were to arise whether his estate were in debt to the charity or the charity in debt to his estate. Such is the question which is now before us, with this important difference; that the accounts of an individual could not be in such a state unless he had been guilty of fraud, or of that gross negligence which is scarcely less culpable than fraud, and that the accounts of the Company were brought into this state by circumstances of a very peculiar kind, by circumstances unparalleled in the history of the world.

It is a mistake to suppose that the Company was a merely commercial body till the middle of the last century. Commerce was its chief object; but in order to enable it to pursue that object, it had been, like the other Companies which were its rivals, like the Dutch India Company, like the French India Company, invested from a very early period with political functions. More than a hundred and twenty years ago, the Company was in miniature precisely what it now is. It was entrusted with the very highest prerogatives of sovereignty. It had its forts, and its white captains, and its black sepoys; it had its civil and criminal tribunals; it was authorised to proclaim martial law; it sent ambassadors to the native governments, and concluded treaties with them; it was Zemindar of several districts; and within those districts, like other Zemindars of the first class, it exercised the powers of a sovereign, even to the infliction of capital punishment on the Hindoos within its jurisdiction. It is incorrect, therefore, to say, that the Company was at first a mere trader, and has since become a sovereign. It was at

first a great trader and a petty prince. The political functions at first attracted little notice, because they were merely auxiliary to the commercial functions. By degrees, however, the political functions became more and more important. The Zemindar became a great nabob, became sovereign of all India; the two hundred sepoys became two hundred thousand. This change was gradually wrought, and was not immediately comprehended. It was natural that, while the political functions of the Company were merely auxiliary to its commerce, the political accounts should have been mixed up with the commercial accounts. It was equally natural that this mode of keeping accounts, having once been established, should have remained unaltered; and the more so, as the change in the situation of the Company, though rapid, was not sudden. It is impossible to name any one day, or any one year, as the day or the year when the Company became a great potentate. It has been the fashion indeed to fix on the year 1765, the year in which the Mogul issued a commission authorising the Company to administer the revenues of Bengal, Bahar, and Orissa, as the precise date of the accession of this singular body to sovereignty. I am utterly at a loss to understand why this epoch should be selected. Long before 1765 the Company had the reality of political power. Long before that year, they made a nabob of Arcot; they made and unmade nabobs of Bengal; they humbled the Vizier of Oude; they braved the Emperor of Hindostan himself; more than half the revenues of Bengal were under one pretence or another administered by them. And after the grant, the Company was not, in form and name, an independent power. It was merely a minister of the Court of Delhi. Its coinage bore the

name of Shah Alum. The inscription which, down to the time of the Marquess of Hastings, appeared on the seal of the Governor General, declared that great functionary to be the slave of the Mogul. Even to this day we have never formally deposed the King of Delhi. The Company contents itself with being Mayor of the Palace, while the *Roi Fainéant* is suffered to play at being a sovereign. In fact, it was considered, both by Lord Clive and by Warren Hastings, as a point of policy to leave the character of the Company thus undefined, in order that the English might treat the princes in whose names they governed as realities or nonentities, just as might be most convenient.

Thus the transformation of the Company from a trading body, which possessed some sovereign prerogatives for the purposes of trade, into a sovereign body, the trade of which was auxiliary to its sovereignty, was effected by degrees and under disguise. It is not strange, therefore, that the mercantile and political transactions of this great corporation should be entangled together in inextricable complication. The commercial investments have been purchased out of the revenues of the empire. The expenses of war and government have been defrayed out of the profits of the trade. Commerce and territory have contributed to the improvement of the same spot of land, to the repairs of the same building. Securities have been given in precisely the same form, for money which has been borrowed for purposes of State, and for money which has been borrowed for purposes of traffic. It is easy, indeed, — and this is a circumstance which has, I think, misled some gentlemen, — it is easy to see what part of the assets of the Company appears in a commercial form, and what part appears in a political

or territorial form. But this is not the question. Assets which are commercial in form may be territorial as respects the right of property; assets which are territorial in form may be commercial as respects the right of property. A chest of tea is not necessarily commercial property; it may have been bought out of the territorial revenue. A fort is not necessarily territorial property; it may stand on ground which the Company bought a hundred years ago out of their commercial profits. Adjudication, if by adjudication be meant decision according to some known rule of law, was out of the question. To leave matters like these to be determined by the ordinary maxims of our civil jurisprudence would have been the height of absurdity and injustice. For example, the home bond debt of the Company, it is believed, was incurred partly for political and partly for commercial purposes. But there is no evidence which would enable us to assign to each branch its proper share. The bonds all run in the same form; and a court of justice would, therefore, of course, either lay the whole burden on the proprietors, or lay the whole on the territory. We have legal opinions, very respectable legal opinions, to the effect, that in strictness of law the territory is not responsible, and that the commercial assets are responsible for every farthing of the debts which were incurred for the government and defence of India. But though this may be, and I believe is, law, it is, I am sure, neither reason nor justice. On the other hand, it is urged by the advocates of the Company, that some valuable portions of the territory are the property of that body in its commercial capacity; that Calcutta, for example, is the private estate of the Company; that the Company holds

the island of Bombay, in free and common socage, as of the Manor of East Greenwich. I will not pronounce any opinion on these points. I have considered them enough to see that there is quite difficulty enough in them to exercise all the ingenuity of all the lawyers in the kingdom for twenty years. But the fact is, Sir, that the municipal law was not made for controversies of this description. The existence of such a body as this gigantic corporation, this political monster of two natures, subject in one hemisphere, sovereign in another, had never been contemplated by the legislators or judges of former ages. Nothing but grotesque absurdity and atrocious injustice could have been the effect, if the claims and liabilities of such a body had been settled according to the rules of Westminster Hall, if the maxims of conveyancers had been applied to the titles by which flourishing cities and provinces are held, or the maxims of the law merchant to those promissory notes which are the securities for a great National Debt, raised for the purpose of exterminating the Pindarrees and humbling the Burmese.

It was, as I have said, absolutely impossible to bring the question between commerce and territory to a satisfactory adjudication; and I must add that, even if the difficulties which I have mentioned could have been surmounted, even if there had been reason to hope that a satisfactory adjudication could have been obtained, I should still have wished to avoid that course. I think it desirable that the Company should continue to have a share in the government of India; and it would evidently have been impossible, pending a litigation between commerce and territory, to leave any political power to the Company. It would clearly have been the duty of those who were charged with

the superintendence of India, to be the patrons of India throughout that momentous litigation, to scrutinise, with the utmost severity, every claim which might be made on the Indian revenues, and to oppose, with energy and perseverance, every such claim, unless its justice were manifest. If the Company was to be engaged in a suit for many millions, in a suit which might last for many years, against the Indian territory, could we entrust the Company with the government of that territory? Could we put the plaintiff in the situation of *prochein ami* of the defendant? Could we appoint governors who would have had an interest opposed in the most direct manner to the interest of the governed, whose stock would have been raised in value by every decision which added to the burdens of their subjects, and depressed by every decision which diminished those burdens? It would be absurd to suppose that they would efficiently defend our Indian Empire against the claims which they were themselves bringing against it; and it would be equally absurd to give the government of the Indian Empire to those who could not be trusted to defend its interests.

Seeing, then, that it was most difficult, if not wholly impossible, to resort to adjudication between commerce and territory, seeing that, if recourse were had to adjudication, it would be necessary to make a complete revolution in the whole constitution of India, the Government has proposed a compromise. That compromise, with some modifications which did not in the slightest degree affect its principle, and which, while they gave satisfaction to the Company, will eventually lay no additional burden on the territory, has been accepted. It has, like all other compromises, been

loudly censured by violent partisans on both sides. It has been represented by some as far too favourable to the Company, and by others as most unjust to the Company. Sir, I own that we cannot prove that either of these accusations is unfounded. It is of the very essence of our case that we should not be able to show that we have assigned, either to commerce or to territory, its precise due. For our principal reason for recommending a compromise was our full conviction that it was absolutely impossible to ascertain with precision what was due to commerce and what was due to territory. It is not strange that some people should accuse us of robbing the Company, and others of conferring a vast boon on the Company, at the expense of India: for we have proposed a middle course, on the very ground that there was a chance of a result much more favourable to the Company than our arrangement, and a chance also of a result much less favourable. If the questions pending between the Company and India had been decided as the ardent supporters of the Company predicted, India would, if I calculate rightly, have paid eleven millions more than she will now have to pay. If those questions had been decided as some violent enemies of the Company predicted, that great body would have been utterly ruined. The very meaning of compromise is that each party gives up his chance of complete success, in order to be secured against the chance of utter failure. And, as men of sanguine minds always overrate the chances in their own favour, every fair compromise is sure to be severely censured on both sides. I conceive that, in a case so dark and complicated as this, the compromise which we recommend is sufficiently vindicated, if it cannot be proved to be unfair. We are not bound to

prove it to be fair. For it would have been unnecessary for us to resort to compromise at all, if we had been in possession of evidence which would have enabled us to pronounce, with certainty, what claims were fair and what were unfair. It seems to me that we have acted with due consideration for every party. The dividend which we give to the proprietors is precisely the same dividend which they have been receiving during forty years, and which they have expected to receive permanently. The price of their stock bears at present the same proportion to the price of other stock which it bore four or five years ago, before the anxiety and excitement which the late negotiations naturally produced had begun to operate. As to the territory on the other hand, it is true that, if the assets which are now in a commercial form should not produce a fund sufficient to pay the debts and dividend of the Company, the territory must stand to the loss and pay the difference. But in return for taking this risk, the territory obtains an immediate release from claims to the amount of many millions. I certainly do not believe that all those claims could have been substantiated; but I know that very able men think differently. And, if only one-fourth of the sum demanded had been awarded to the Company, India would have lost more than the largest sum which, as it seems to me, she can possibly lose under the proposed arrangement.

In a pecuniary point of view, therefore, I conceive that we can defend the measure as it affects the territory. But to the territory the pecuniary question is of secondary importance. If we have made a good pecuniary bargain for India, but a bad political bargain, if we have saved three or four millions to the

finances of that country, and given to it, at the same time, pernicious institutions, we shall indeed have been practising a most ruinous parsimony. If, on the other hand, it shall be found that we have added fifty or a hundred thousand pounds a-year to the expenditure of an empire which yields a revenue of twenty millions, but that we have at the same time secured to that empire, as far as in us lies, the blessings of good government, we shall have no reason to be ashamed of our profusion. I hope and believe that India will have to pay nothing. But on the most unfavourable supposition that can be made, she will not have to pay so much to the Company as she now pays annually to a single state pageant, to the titular Nabob of Bengal, for example, or the titular King of Delhi. What she pays to these nominal princes, who, while they did anything, did mischief, and who now do nothing, she may well consent to pay to her real rulers, if she receives from them, in return, efficient protection and good legislation.

We come then to the great question. Is it desirable to retain the Company as an organ of government for India? I think that it is desirable. The question is, I acknowledge, beset with difficulties. We have to solve one of the hardest problems in politics. We are trying to make brick without straw, to bring a clean thing out of an unclean, to give a good government to a people to whom we cannot give a free government. In this country, in any neighbouring country, it is easy to frame securities against oppression. In Europe, you have the materials of good government everywhere ready to your hands. The people are everywhere perfectly competent to hold some share, not in every country an equal share, but

some share, of political power. If the question were, What is the best mode of securing good government in Europe? the merest smatterer in politics would answer, Representative institutions. In India you cannot have representative institutions. Of all the innumerable speculators who have offered their suggestions on Indian politics, not a single one, as far as I know, however democratical his opinions may be, has ever maintained the possibility of giving, at the present time, such institutions to India. One gentleman, extremely well acquainted with the affairs of our Eastern Empire, a most valuable servant of the Company, and the author of a History of India, which, though certainly not free from faults, is, I think, on the whole, the greatest historical work which has appeared in our language since that of Gibbon, I mean Mr. Mill, was examined on this point. That gentleman is well known to be a very bold and uncompromising politician. He has written strongly, far too strongly I think, in favour of pure democracy. He has gone so far as to maintain that no nation which has not a representative legislature, chosen by universal suffrage, enjoys security against oppression. But when he was asked before the Committee of last year, whether he thought representative government practicable in India, his answer was, "Utterly out of the question." This, then, is the state in which we are. We have to frame a good government for a country into which, by universal acknowledgment, we cannot introduce those institutions which all our habits, which all the reasonings of European philosophers, which all the history of our own part of the world would lead us to consider as the one great security for good government. We have to engraft on

despotism those blessings which are the natural fruits of liberty. In these circumstances, Sir, it behoves us to be cautious, even to the verge of timidity. The light of political science and of history are withdrawn: we are walking in darkness: we do not distinctly see whither we are going. It is the wisdom of a man, so situated, to feel his way, and not to plant his foot till he is well assured that the ground before him is firm.

Some things, however, in the midst of this obscurity, I can see with clearness. I can see, for example, that it is desirable that the authority exercised in this country over the Indian government should be divided between two bodies, between a minister or a board appointed by the Crown, and some other body independent of the Crown. If India is to be a dependency of England, to be at war with our enemies, to be at peace with our allies, to be protected by the English navy from maritime aggression, to have a portion of the English army mixed with its sepoys, it plainly follows that the King, to whom the Constitution gives the direction of foreign affairs, and the command of the military and naval forces, ought to have a share in the direction of the Indian government. Yet, on the other hand, that a revenue of twenty millions a year, an army of two hundred thousand men, a civil service abounding with lucrative situations, should be left to the disposal of the Crown without any check whatever, is what no Minister, I conceive, would venture to propose. This House is indeed the check provided by the Constitution on the abuse of the royal prerogative. But that this House is, or is likely ever to be, an efficient check on abuses practised in India, I altogether deny. We have, as I believe we all feel, quite business

enough. If we were to undertake the task of looking into Indian affairs as we look into British affairs, if we were to have Indian budgets and Indian estimates, if we were to go into the Indian currency question and the Indian Bank Charter, if to our disputes about Belgium and Holland, Don Pedro and Don Miguel, were to be added disputes about the debts of the Guicowar and the disorders of Mysore, the ex-king of the Afghans and the Maharajah Runjeet Sing; if we were to have one night occupied by the embezzlements of the Benares mint, and another by the panic in the Calcutta money market; if the questions of Suttee or no Suttee, Pilgrim tax or no Pilgrim tax, Ryotwary or Zemindary, half Batta or whole Batta, were to be debated at the same length at which we have debated Church reform and the assessed taxes, twenty-four hours a day and three hundred and sixty-five days a year would be too short a time for the discharge of our duties. The House, it is plain, has not the necessary time to settle these matters; nor has it the necessary knowledge; nor has it the motives to acquire that knowledge. The late change in its constitution has made it, I believe, a much more faithful representative of the English people. But it is as far as ever from being a representative of the Indian people. A broken head in Cold Bath Fields produces a greater sensation among us than three pitched battles in India. A few weeks ago we had to decide on a claim brought by an individual against the revenues of India. If it had been an English question the walls would scarcely have held the Members who would have flocked to the division. It was an Indian question; and we could scarcely, by dint of supplication, make a House. Even when my

right honourable friend, the President of the Board of Control, gave his able and interesting explanation of the plan which he intended to propose for the government of a hundred millions of human beings, the attendance was not so large as I have often seen it on a turnpike bill or a railroad bill.

I then take these things as proved, that the Crown must have a certain authority over India, that there must be an efficient check on the authority of the Crown, and that the House of Commons cannot be that efficient check. We must then find some other body to perform that important office. We have such a body, — the Company. Shall we discard it?

It is true that the power of the Company is an anomaly in politics. It is strange, very strange, that a joint stock society of traders; a society, the shares of which are daily passed from hand to hand; a society, the component parts of which are perpetually changing; a society, which, judging *à priori* from its constitution, we should have said was as little fitted for imperial functions as the Merchant Tailors' Company or the New River Company, should be entrusted with the sovereignty of a larger population, the disposal of a larger clear revenue, the command of a larger army, than are under the direct management of the Executive Government of the United Kingdom. But what constitution can we give to our Indian Empire which shall not be strange, which shall not be anomalous? That Empire is itself the strangest of all political anomalies. That a handful of adventurers from an island in the Atlantic should have subjugated a vast country divided from the place of their birth by half the globe; a country which at no very distant period was merely the subject of fable to the nations of Eu-

rope; a country never before violated by the most renowned of Western Conquerors; a country which Trajan never entered; a country lying beyond the point where the phalanx of Alexander refused to proceed; that we should govern a territory ten thousand miles from us; a territory larger and more populous than France, Spain, Italy, and Germany put together; a territory, the present clear revenue of which exceeds the present clear revenue of any state in the world, France excepted; a territory, inhabited by men differing from us in race, colour, language, manners, morals, religion; these are prodigies to which the world has seen nothing similar. Reason is confounded. We interrogate the past in vain. General rules are useless where the whole is one vast exception. The Company is an anomaly; but it is part of a system where everything is anomaly. It is the strangest of all governments; but it is designed for the strangest of all Empires.

If we discard the Company, we must find a substitute: and, take what substitute we may, we shall find ourselves unable to give any reason for believing that the body which we have put in the room of the Company is likely to acquit itself of its duties better than the Company. Commissioners appointed by the King during pleasure would be no check on the Crown; Commissioners appointed by the King or by Parliament for life would always be appointed by the political party which might be uppermost, and if a change of administration took place, would harass the new Government with the most vexatious opposition. The plan suggested by the right honourable Gentleman, the Member for Montgomeryshire,[1] is I think the very worst

[1] Mr. Charles Wynn.

that I have ever heard. He would have Directors nominated every four years by the Crown. Is it not plain that these Directors would always be appointed from among the supporters of the Ministry for the time being; that their situations would depend on the permanence of that Ministry; that therefore all their power and patronage would be employed for the purpose of propping that Ministry, and, in case of a change, for the purpose of molesting those who might succeed to power; that they would be subservient while their friends were in, and factious when their friends were out? How would Lord Grey's Ministry have been situated if the whole body of Directors had been nominated by the Duke of Wellington in 1830? I mean no imputation on the Duke of Wellington. If the present Ministers had to nominate Directors for four years, they would, I have no doubt, nominate men who would give no small trouble to the Duke of Wellington if he were to return to office. What we want is a body independent of the Government, and no more than independent, not a tool of the Treasury, not a tool of the opposition. No new plan which I have heard proposed would give us such a body. The Company, strange as its constitution may be, is such a body. It is, as a corporation, neither Whig nor Tory, neither high-church nor low-church. It cannot be charged with having been for or against the Catholic Bill, for or against the Reform Bill. It has constantly acted with a view, not to English politics, but to Indian politics. We have seen the country convulsed by faction. We have seen Ministers driven from office by this House, Parliament dissolved in anger, general elections of unprecedented turbulence, debates of unprecedented interest. We have seen the two branche

of the Legislature placed in direct opposition to each other. We have seen the advisers of the Crown dismissed one day, and brought back the next day on the shoulders of the people. And amidst all these agitating events the Company has preserved strict and unsuspected neutrality. This is, I think, an inestimable advantage; and it is an advantage which we must altogether forego, if we consent to adopt any of the schemes which I have heard proposed on the other side of the House.

We must judge of the Indian government, as of all other governments, by its practical effects. According to the honourable Member for Sheffield, India is ill governed; and the whole fault is with the Company. Innumerable accusations, great and small, are brought by him against the Directors. They are fond of war: they are fond of dominion: the taxation is burdensome: the laws are undigested: the roads are rough: the post goes on foot: and for everything the Company is answerable. From the dethronement of the Mogul princes to the mishaps of Sir Charles Metcalfe's courier, every disaster that has taken place in the East during sixty years is laid to the charge of this Corporation. And the inference is, that all the power which they possess ought to be taken out of their hands, and transferred at once to the Crown.

Now, Sir, it seems to me that, for all the evils which the honourable Gentleman has so pathetically recounted, the Ministers of the Crown are as much to blame as the Company; nay, much more so: for the Board of Control could, without the consent of the Directors, have redressed those evils; and the Directors most certainly could not have redressed them without the consent of the Board of Control. Take the case of

that frightful grievance which seems to have made the deepest impression on the mind of the honourable Gentleman, the slowness of the mail. Why, Sir, if my right honourable friend, the President of our Board, thought fit, he might direct me to write to the Court and require them to frame a dispatch on that subject. If the Court disobeyed, he might himself frame a dispatch ordering Lord William Bentinck to put the dawks all over Bengal on horseback. If the Court refused to send out this dispatch, the Board could apply to the King's Bench for a Mandamus. If, on the other hand, the Directors wished to accelerate the journeys of the mail, and the Board were adverse to the project, the Directors could do nothing at all. For all measures of internal policy the servants of the King are at least as deeply responsible as the Company. For all measures of foreign policy the servants of the King, and they alone, are responsible. I was surprised to hear the honourable Gentleman accuse the Directors of insatiable ambition and rapacity, when he must know that no act of aggression on any native state can be committed by the Company without the sanction of the Board, and that, in fact, the Board has repeatedly approved of warlike measures, which were strenuously opposed by the Company. He must know, in particular, that, during the energetic and splendid administration of the Marquess Wellesley, the Company was all for peace, and the Board all for conquest. If a line of conduct which the honourable Gentleman thinks unjustifiable has been followed by the Ministers of the Crown in spite of the remonstrances of the Directors, this is surely a strange reason for turning off the Directors, and giving the whole power unchecked to the Crown.

The honourable member tells us that India, under the present system, is not so rich and flourishing as she was two hundred years ago. Really, Sir, I doubt whether we are in possession of sufficient data to enable us to form a judgment on that point. But the matter is of little importance. We ought to compare India under our Government, not with India under Acbar and his immediate successors, but with India as we found it. The calamities through which that country passed during the interval between the fall of the Mogul power and the establishment of the English supremacy were sufficient to throw the people back whole centuries. It would surely be unjust to say, that Alfred was a bad King, because Britain, under his government, was not so rich or so civilised as in the time of the Romans.

In what state, then, did we find India? And what have we made India? We found society throughout that vast country in a state to which history scarcely furnishes a parallel. The nearest parallel would, perhaps, be the state of Europe during the fifth century. The Mogul empire in the time of the successors of Aurungzebe, like the Roman empire in the time of the successors of Theodosius, was sinking under the vices of a bad internal administration, and under the assaults of barbarous invaders. At Delhi, as at Ravenna, there was a mock sovereign, immured in a gorgeous state prison. He was suffered to indulge in every sensual pleasure. He was adored with servile prostrations. He assumed and bestowed the most magnificent titles. But, in fact, he was a mere puppet in the hands of some ambitious subject. While the Honorii and Augustuli of the East, surrounded by their fawning eunuchs, revelled and dozed without knowing or caring what

might pass beyond the walls of their palace gardens, the provinces had ceased to respect a government which could neither punish nor protect them. Society was a chaos. Its restless and shifting elements formed themselves every moment into some new combination, which the next moment dissolved. In the course of a single generation a hundred dynasties grew up, flourished, decayed, were extinguished, were forgotten. Every adventurer who could muster a troop of horse might aspire to a throne. Every palace was every year the scene of conspiracies, treasons, revolutions, parricides. Meanwhile a rapid succession of Alarics and Attilas passed over the defenceless empire. A Persian invader penetrated to Delhi, and carried back in triumph the most precious treasures of the House of Tamerlane. The Afghan soon followed, by the same track, to glean whatever the Persian had spared. The Jauts established themselves on the Jumna. The Seiks devastated Lahore. Every part of India, from Tanjore to the Himalayas, was laid under contribution by the Mahrattas. The people were ground down to the dust by the oppressor without and the oppressor within; by the robber from whom the Nabob was unable to protect them, by the Nabob who took whatever the robber had left to them. All the evils of despotism, and all the evils of anarchy, pressed at once on that miserable race. They knew nothing of government but its exactions. Desolation was in their imperial cities, and famine all along the banks of their broad and redundant rivers. It seemed that a few more years would suffice to efface all traces of the opulence and civilisation of an earlier age.

Such was the state of India when the Company began to take part in the disputes of its ephemeral

sovereigns. About eighty years have elapsed since we appeared as auxiliaries in a contest between two rival families for the sovereignty of a small corner of the Peninsula. From that moment commenced a great, a stupendous process, the reconstruction of a decomposed society. Two generations have passed away; and the process is complete. The scattered fragments of the empire of Aurungzebe have been united in an empire stronger and more closely knit together than that which Aurungzebe ruled. The power of the new sovereigns penetrates their dominions more completely, and is far more implicitly obeyed, than was that of the proudest princes of the Mogul dynasty.

It is true, that the early history of this great revolution is chequered with guilt and shame. It is true that the founders of our Indian empire too often abused the strength which they derived from superior energy and superior knowledge. It is true that, with some of the highest qualities of the race from which they sprang, they combined some of the worst defects of the race over which they ruled. How should it have been otherwise? Born in humble stations, accustomed to earn a slender maintenance by obscure industry, they found themselves transformed in a few months from clerks drudging over desks, or captains in marching regiments, into statesmen and generals, with armies at their command, with the revenues of kingdoms at their disposal, with power to make and depose sovereigns at their pleasure. They were what it was natural that men should be who had been raised by so rapid an ascent to so dizzy an eminence, profuse and rapacious, imperious and corrupt.

It is true, then, that there was too much foundation for the representations of those satirists and dramatists

who held up the character of the English Nabob to the derision and hatred of a former generation. It is true that some disgraceful intrigues, some unjust and cruel wars, some instances of odious perfidy and avarice stain the annals of our Eastern empire. It is true that the duties of government and legislation were long wholly neglected or carelessly performed. It is true that when the conquerors at length began to apply themselves in earnest to the discharge of their high functions, they committed the errors natural to rulers who were but imperfectly acquainted with the language and manners of their subjects. It is true that some plans, which were dictated by the purest and most benevolent feelings, have not been attended by the desired success. It is true that India suffers to this day from a heavy burden of taxation and from a defective system of law. It is true, I fear, that in those states which are connected with us by subsidiary alliance, all the evils of oriental despotism have too frequently shown themselves in their most loathsome and destructive form.

All this is true. Yet in the history and in the present state of our Indian empire I see ample reason for exultation and for a good hope.

I see that we have established order where we found confusion. I see that the petty dynasties which were generated by the corruption of the great Mahometan empire, and which, a century ago, kept all India in constant agitation, have been quelled by one overwhelming power. I see that the predatory tribes which, in the middle of the last century, passed annually over the harvests of India with the destructive rapidity of a hurricane, have quailed before the valour of a braver and sterner race, have been vanquished,

scattered, hunted to their strongholds, and either extirpated by the English sword, or compelled to exchange the pursuits of rapine for those of industry.

I look back for many years; and I see scarcely a trace of the vices which blemished the splendid fame of the first conquerors of Bengal. I see peace studiously preserved. I see faith inviolably maintained towards feeble and dependent states. I see confidence gradually infused into the minds of suspicious neighbours. I see the horrors of war mitigated by the chivalrous and Christian spirit of Europe. I see examples of moderation and clemency, such as I should seek in vain in the annals of any other victorious and dominant nation. I see captive tyrants, whose treachery and cruelty might have excused a severe retribution, living in security, comfort, and dignity, under the protection of the government which they laboured to destroy.

I see a large body of civil and military functionaries resembling in nothing but capacity and valour those adventurers who, seventy years ago, came hither, laden with wealth and infamy, to parade before our fathers the plundered treasures of Bengal and Tanjore. I reflect with pride that to the doubtful splendour which surrounds the memory of Hastings and of Clive, we can oppose the spotless glory of Elphinstone and Munro. I contemplate with reverence and delight the honourable poverty which is the evidence of rectitude firmly maintained amidst strong temptations. I rejoice to see my countrymen, after ruling millions of subjects, after commanding victorious armies, after dictating terms of peace at the gates of hostile capitals, after administering the revenues of great provinces, after judging the causes of wealthy Zemindars, after re-

siding at the Courts of tributary Kings, return to their native land with no more than a decent competence.

I see a government anxiously bent on the public good. Even in its errors I recognise a paternal feeling towards the great people committed to its charge. I see toleration strictly maintained: yet I see bloody and degrading superstitions gradually losing their power. I see the morality, the philosophy, the taste of Europe, beginning to produce a salutary effect on the hearts and understandings of our subjects. I see the public mind of India, that public mind which we found debased and contracted by the worst forms of political and religious tyranny, expanding itself to just and noble views of the ends of government and of the social duties of man.

I see evils: but I see the government actively employed in the work of remedying those evils. The taxation is heavy; but the work of retrenchment is unsparingly pursued. The mischiefs arising from the system of subsidiary alliance are great: but the rulers of India are fully aware of those mischiefs, and are engaged in guarding against them. Wherever they now interfere for the purpose of supporting a native government, they interfere also for the purpose of reforming it.

Seeing these things, then, am I prepared to discard the Company as an organ of government? I am not. Assuredly I will never shrink from innovation where I see reason to believe that innovation will be improvement. That the present Government does not shrink from innovations which it considers as improvements the bill now before the House sufficiently shows. But surely the burden of the proof lies on the innovators. They are bound to show that there is a fair probability

of obtaining some advantage before they call upon us to take up the foundations of the Indian government. I have no superstitious veneration for the Court of Directors or the Court of Proprietors. Find me a better Council: find me a better constituent body: and I am ready for a change. But of all the substitutes for the Company which have hitherto been suggested, not one has been proved to be better than the Company; and most of them I could, I think, easily prove to be worse. Circumstances might force us to hazard a change. If the Company were to refuse to accept of the government unless we would grant pecuniary terms which I thought extravagant, or unless we gave up the clauses in this bill which permit Europeans to hold landed property and natives to hold office, I would take them at their word. But I will not discard them in the mere rage of experiment.

Do I call the government of India a perfect government? Very far from it. No nation can be perfectly well governed till it is competent to govern itself. I compare the Indian government with other governments of the same class, with despotisms, with military despotisms, with foreign military despotisms; and I find none that approaches it in excellence. I compare it with the government of the Roman provinces, with the government of the Spanish colonies; and I am proud of my country and my age. Here are a hundred millions of people under the absolute rule of a few strangers, differing from them physically, differing from them morally, mere Mamelukes, not born in the country which they rule, not meaning to lay their bones in it. If you require me to make this government as good as that of England, France, or the United States of America, I own frankly that I can

do no such thing. Reasoning *à priori*, I should have come to the conclusion that such a government must be a horrible tyranny. It is a source of constant amazement to me that it is so good as I find it to be. I will not, therefore, in a case in which I have neither principles nor precedents to guide me, pull down the existing system on account of its theoretical defects. For I know that any system which I could put in its place would be equally condemned by theory, while it would not be equally sanctioned by experience.

Some change in the constitution of the Company was, as I have shown, rendered inevitable by the opening of the China Trade; and it was the duty of the Government to take care that the change should not be prejudicial to India. There were many ways in which the compromise between commerce and territory might have been effected. We might have taken the assets, and paid a sum down, leaving the Company to invest that sum as they chose. We might have offered English security with a lower interest. We might have taken the course which the late ministers designed to take. They would have left the Company in possession of the means of carrying on its trade in competition with private merchants. My firm belief is that, if this course had been taken, the Company must, in a very few years, have abandoned the trade, or the trade would have ruined the Company. It was not, however, solely or principally by regard for the interest of the Company, or of English merchants generally, that the Government was guided on this occasion. The course which appeared to us the most likely to promote the interests of our Eastern Empire was to make the proprietors of India stock creditors of the Indian territory. Their interest will thus be in a great measure

the same with the interest of the people whom they are to rule. Their income will depend on the revenues of their empire. The revenues of their empire will depend on the manner in which the affairs of that empire are administered. We furnish them with the strongest motives to watch over the interests of the cultivator and the trader, to maintain peace, to carry on with vigour the work of retrenchment, to detect and punish extortion and corruption. Though they live at a distance from India, though few of them have ever seen or may ever see the people whom they rule, they will have a great stake in the happiness of their subjects. If their misgovernment should produce disorder in the finances, they will themselves feel the effects of that disorder in their own household expenses. I believe this to be, next to a representative constitution, the constitution which is the best security for good government. A representative constitution India cannot at present have. And we have therefore, I think, given her the best constitution of which she is capable.

One word as to the new arrangement which we propose with respect to the patronage. It is intended to introduce the principle of competition in the disposal of writerships; and from this change I cannot but anticipate the happiest results. The civil servants of the Company are undoubtedly a highly respectable body of men; and in that body, as in every large body, there are some persons of very eminent ability. I rejoice most cordially to see this. I rejoice to see that the standard of morality is so high in England, that intelligence is so generally diffused through England, that young persons who are taken from the mass of society, by favour and not by merit, and who are

therefore only fair samples of the mass, should, when placed in situations of high importance, be so seldom found wanting. But it is not the less true that India is entitled to the service of the best talents which England can spare. That the average of intelligence and virtue is very high in this country is matter for honest exultation. But it is no reason for employing average men where you can obtain superior men. Consider, too, Sir, how rapidly the public mind of India is advancing, how much attention is already paid by the higher classes of the natives to those intellectual pursuits on the cultivation of which the superiority of the European race to the rest of mankind principally depends. Surely, in such circumstances, from motives of selfish policy, if from no higher motive, we ought to fill the magistracies of our Eastern Empire with men who may do honour to their country, with men who may represent the best part of the English nation. This, Sir, is our object; and we believe that by the plan which is now proposed this object will be attained. It is proposed that for every vacancy in the civil service four candidates shall be named, and the best candidate selected by examination. We conceive that, under this system, the persons sent out will be young men above par, young men superior either in talents or in diligence to the mass. It is said, I know, that examinations in Latin, in Greek, and in mathematics, are no tests of what men will prove to be in life. I am perfectly aware that they are not infallible tests: but that they are tests I confidently maintain. Look at every walk of life, at this House, at the other House, at the Bar, at the Bench, at the Church, and see whether it be not true that those who attain high distinction in the world were generally men who were

distinguished in their academic career. Indeed, Sir, this objection would prove far too much even for those who use it. It would prove that there is no use at all in education. Why should we put boys out of their way? Why should we force a lad, who would much rather fly a kite or trundle a hoop, to learn his Latin Grammar? Why should we keep a young man to his Thucydides or his Laplace, when he would much rather be shooting? Education would be mere useless torture, if, at two or three and twenty, a man who had neglected his studies were exactly on a par with a man who had applied himself to them, exactly as likely to perform all the offices of public life with credit to himself and with advantage to society. Whether the English system of education be good or bad is not now the question. Perhaps I may think that too much time is given to the ancient languages and to the abstract sciences. But what then? Whatever be the languages, whatever be the sciences, which it is, in any age or country, the fashion to teach, the persons who become the greatest proficients in those languages and those sciences will generally be the flower of the youth, the most acute, the most industrious, the most ambitious of honourable distinctions. If the Ptolemaic system were taught at Cambridge instead of the Newtonian, the senior wrangler would nevertheless be in general a superior man to the wooden spoon. If, instead of learning Greek, we learned the Cherokee, the man who understood the Cherokee best, who made the most correct and melodious Cherokee verses, who comprehended most accurately the effect of the Cherokee particles, would generally be a superior man to him who was destitute of these accomplishments. If astrology were taught at our Universities, the young man

who cast nativities best would generally turn out a superior man. If alchymy were taught, the young man who showed most activity in the pursuit of the philosopher's stone would generally turn out a superior man.

I will only add one other observation on this subject. Although I am inclined to think that too exclusive an attention is paid in the education of young English gentlemen to the dead languages, I conceive that when you are choosing men to fill situations for which the very first and most indispensable qualification is familiarity with foreign languages, it would be difficult to find a better test of their fitness than their classical acquirements.

Some persons have expressed doubts as to the possibility of procuring fair examinations. I am quite sure that no person who has been either at Cambridge or at Oxford can entertain such doubts. I feel, indeed, that I ought to apologise for even noticing an objection so frivolous.

Next to the opening of the China Trade, Sir, the change most eagerly demanded by the English people was, that the restrictions on the admission of Europeans to India should be removed. In this change there are undoubtedly very great advantages. The chief advantage is, I think, the improvement which the minds of our native subjects may be expected to derive from free intercourse with a people far advanced beyond themselves in intellectual cultivation. I cannot deny, however, that the advantages are attended with some danger.

The danger is that the new comers, belonging to the ruling nation, resembling in colour, in language, in manners, those who hold supreme military and political

power, and differing in all these respects from the great mass of the population, may consider themselves as a superior class, and may trample on the indigenous race. Hitherto there have been strong restraints on Europeans resident in India. Licences were not easily obtained. Those residents who were in the service of the Company had obvious motives for conducting themselves with propriety. If they incurred the serious displeasure of the Government, their hopes of promotion were blighted. Even those who were not in the public service were subject to the formidable power which the Government possessed of banishing them at its pleasure.

The licence of the Government will now no longer be necessary to persons who desire to reside in the settled provinces of India. The power of arbitrary deportation is withdrawn. Unless, therefore, we mean to leave the natives exposed to the tyranny and insolence of every profligate adventurer who may visit the East, we must place the European under the same power which legislates for the Hindoo. No man loves political freedom more than I. But a privilege enjoyed by a few individuals, in the midst of a vast population who do not enjoy it, ought not to be called freedom. It is tyranny. In the West Indies I have not the least doubt that the existence of the Trial by Jury and of Legislative Assemblies has tended to make the condition of the slaves worse than it would otherwise have been. Or, to go to India itself for an instance, though I fully believe that a mild penal code is better than a severe penal code, the worst of all systems was surely that of having a mild code for the Brahmins, who sprang from the head of the Creator, while there was a severe code for the Sudras, who

sprang from his feet. India has suffered enough already from the distinction of castes, and from the deeply rooted prejudices which that distinction has engendered. God forbid that we should inflict on her the curse of a new caste, that we should send her a new breed of Brahmins, authorised to treat all the native population as Parias!

With a view to the prevention of this evil, we propose to give to the Supreme Government the power of legislating for Europeans as well as for natives. We propose that the regulations of the Government shall bind the King's Court as they bind all other courts, and that registration by the Judges of the King's Courts shall no longer be necessary to give validity to those regulations within the towns of Calcutta, Madras, and Bombay.

I could scarcely, Sir, believe my ears when I heard this part of our plan condemned in another place. I should have thought that it would have been received with peculiar favour in that quarter where it has met with the most severe condemnation. What, at present, is the case? If the Supreme Court and the Government differ on a question of jurisdiction, or on a question of legislation within the towns which are the seats of Government, there is absolutely no umpire but the Imperial Parliament. The device of putting one wild elephant between two tame elephants was ingenious; but it may not always be practicable. Suppose a tame elephant between two wild elephants, or suppose that the whole herd should run wild together. The thing is not without example. And is it not most unjust and ridiculous that, on one side of a ditch, the edict of the Governor General should have the force of law, and that on the other side it should be of no

effect unless registered by the Judges of the Supreme Court? If the registration be a security for good legislation, we are bound to give that security to all classes of our subjects. If the registration be not a security for good legislation, why give it to any? Is the system good? Extend it. Is it bad? Abolish it. But in the name of common sense do not leave it as it is. It is as absurd as our old law of sanctuary. The law which authorises imprisonment for debt may be good or bad. But no man in his senses can approve of the ancient system under which a debtor who might be arrested in Fleet Street was safe as soon as he had scampered into Whitefriars. Just in the same way, doubts may fairly be entertained about the expediency of allowing four or five persons to make laws for India; but to allow them to make laws for all India without the Mahratta ditch, and to except Calcutta, is the height of absurdity.

I say, therefore, that either you must enlarge the power of the Supreme Court, and give it a general veto on laws, or you must enlarge the power of the Government, and make its regulations binding on all Courts without distinction. The former course no person has ventured to propose. To the latter course objections have been made; but objections which to me, I must own, seem altogether frivolous.

It is acknowledged that of late years inconvenience has arisen from the relation in which the Supreme Court stands to the Government. But, it is said, that Court was originally instituted for the protection of natives against Europeans. The wise course would therefore be to restore its original character.

Now, Sir, the fact is, that the Supreme Court has never been so mischievous as during the first ten years

of its power, or so respectable as it has lately been. Everybody who knows anything of its early history knows, that, during a considerable time, it was the terror of Bengal, the scourge of the native population, the screen of European delinquents, a convenient tool of the Government for all purposes of evil, an insurmountable obstacle to the Government in all undertakings for the public good; that its proceedings were made up of pedantry, cruelty, and corruption; that its disputes with the Government were at one time on the point of breaking up the whole fabric of society; and that a convulsion was averted only by the dexterous policy of Warren Hastings, who at last bought off the opposition of the Chief Justice for eight thousand pounds a year. It is notorious that, while the Supreme Court opposed Hastings in all his best measures, it was a thoroughgoing accomplice in his worst; that it took part in the most scandalous of those proceedings which, fifty years ago, roused the indignation of Parliament and of the country; that it assisted in the spoliation of the princesses of Oude; that it passed sentence of death on Nuncomar. And this is the Court which we are to restore from its present state of degeneracy to its original purity. This is the protection which we are to give to the natives against the Europeans. Sir, so far is it from being true that the character of the Supreme Court has deteriorated, that it has, perhaps, improved more than any other institution in India. But the evil lies deep in the nature of the institution itself. The Judges have in our time deserved the greatest respect. Their judgment and integrity have done much to mitigate the vices of the system. The worst charge that can be brought against any of them is that of pertinacity, disinterested, conscientious pertinacity, in

error. The real evil is the state of the law. You have two supreme powers in India. There is no arbitrator except a Legislature fifteen thousand miles off. Such a system is on the face of it an absurdity in politics. My wonder is, not that this system has several times been on the point of producing fatal consequences to the peace and resources of India; — those, I think, are the words in which Warren Hastings described the effect of the contest between his government and the Judges; — but that it has not actually produced such consequences. The most distinguished members of the Indian Government, the most distinguished Judges of the Supreme Court, call upon you to reform this system. Sir Charles Metcalfe, Sir Charles Grey, represent with equal urgency the expediency of having one single paramount council armed with legislative power. The admission of Europeans to India renders it absolutely necessary not to delay our decision. The effect of that admission would be to raise a hundred questions, to produce a hundred contests between the Council and the judicature. The Government would be paralysed at the precise moment at which all its energy was required. While the two equal powers were acting in opposite directions, the whole machine of the state would stand still. The Europeans would be uncontrolled. The natives would be unprotected. The consequences I will not pretend to foresee. Everything beyond is darkness and confusion.

Having given to the Government supreme legislative power, we next propose to give to it for a time the assistance of a Commission for the purpose of digesting and reforming the laws of India, so that those laws may, as soon as possible, be formed into a code. Gentlemen of whom I wish to speak with the highest

respect have expressed a doubt whether India be at present in a fit state to receive a benefit which is not yet enjoyed by this free and highly civilised country. Sir, I can allow to this argument very little weight beyond that which it derives from the personal authority of those who use it. For, in the first place, our freedom and our high civilisation make this improvement, desirable as it must always be, less indispensably necessary to us than to our Indian subjects; and in the next place our freedom and civilisation, I fear, make it far more difficult for us to obtain this benefit for our selves than to bestow it on them.

I believe that no country ever stood so much in need of a code of laws as India; and I believe also that there never was a country in which the want might so easily be supplied. I said that there were many points of analogy between the state of that country after the fall of the Mogul power, and the state of Europe after the fall of the Roman empire. In one respect the analogy is very striking. As there were in Europe then, so there are in India now, several systems of law widely differing from each other, but coexisting and coequal. The indigenous population has its own laws. Each of the successive races of conquerors has brought with it its own peculiar jurisprudence: the Mussulman his Koran and the innumerable commentators on the Koran; the Englishman his Statute Book and his Term Reports. As there were established in Italy, at one and the same time, the Roman law, the Lombard law, the Ripuarian law, the Bavarian law, and the Salic law, so we have now in our Eastern Empire Hindoo law, Mahometan law, Parsee law, English law, perpetually mingling with each other and disturbing each other, varying with the person, varying with the place. In one and the same

cause the process and pleadings are in the fashion of one nation, the judgment is according to the laws of another. An issue is evolved according to the rules of Westminster, and decided according to those of Benares.. The only Mahometan book in the nature of a code is the Koran; the only Hindoo book the Institutes. Everybody who knows those books knows that they provide for a very small part of the cases which must arise in every community. All beyond them is comment and tradition. Our regulations in civil matters do not define rights, but merely establish remedies. If a point of Hindoo law arises, the Judge calls on the Pundit for an opinion. If a point of Mahometan law arises, the Judge applies to the Cauzee. What the integrity of these functionaries is, we may learn from Sir William Jones. That eminent man declared that he could not answer it to his conscience to decide any point of law on the faith of a Hindoo expositor. Sir Thomas Strange confirms this declaration. Even if there were no suspicion of corruption on the part of the interpreters of the law, the science which they profess is in such a state of confusion that no reliance can be placed on their answers. Sir Francis Macnaghten tells us, that it is a delusion to fancy that there is any known and fixed law under which the Hindoo people live; that texts may be produced on any side of any question; that expositors equal in authority perpetually contradict each other; that the obsolete law is perpetually confounded with the law actually in force, and that the first lesson to be impressed on a functionary who has to administer Hindoo law is that it is vain to think of extracting certainty from the books of the jurist. The consequence is that in practice the decisions of the tribunals are altogether arbi-

trary. What is administered is not law, but a kind of rude and capricious equity. I asked an able and excellent judge lately returned from India how one of our Zillah Courts would decide several legal questions of great importance, questions not involving considerations of religion or of caste, mere questions of commercial law. He told me, that it was a mere lottery. He knew how he should himself decide them. But he knew nothing more. I asked a most distinguished civil servant of the Company, with reference to the clause in this Bill on the subject of slavery, whether at present, if a dancing girl ran away from her master, the judge would force her to go back. "Some judges," he said, "send a girl back. Others set her at liberty. The whole is a mere matter of chance. Everything depends on the temper of the individual judge."

Even in this country, we have had complaints of judge-made law; even in this country, where the standard of morality is higher than in almost any other part of the world; where, during several generations, not one depositary of our legal traditions has incurred the suspicion of personal corruption; where there are popular institutions; where every decision is watched by a shrewd and learned audience; where there is an intelligent and observant public; where every remarkable case is fully reported in a hundred newspapers; where, in short, there is everything which can mitigate the evils of such a system. But judge-made law, where there is an absolute government and a lax morality, where there is no bar and no public, is a curse and a scandal not to be endured. It is time that the magistrate should know what law he is to administer, that the subject should know under what law he is to

live. We do not mean that all the people of India should live under the same law: far from it: there is not a word in the bill, there was not a word in my right honourable friend's speech, susceptible of such an interpretation. We know how desirable that object is; but we also know that it is unattainable. We know that respect must be paid to feelings generated by differences of religion, of nation, and of caste. Much, I am persuaded, may be done to assimilate the different systems of law without wounding those feelings. But, whether we assimilate those systems or not, let us ascertain them; let us digest them. We propose no rash innovation; we wish to give no shock to the prejudices of any part of our subjects. Our principle is simply this; uniformity where you can have it; diversity where you must have it; but in all cases certainty.

As I believe that India stands more in need of a code than any other country in the world, I believe also that there is no country on which that great benefit can more easily be conferred. A code is almost the only blessing, perhaps it is the only blessing, which absolute governments are better fitted to confer on a nation than popular governments. The work of digesting a vast and artificial system of unwritten jurisprudence is far more easily performed, and far better performed, by few minds than by many, by a Napoleon than by a Chamber of Deputies and a Chamber of Peers, by a government like that of Prussia or Denmark than by a government like that of England. A quiet knot of two or three veteran jurists is an infinitely better machinery for such a purpose than a large popular assembly, divided, as such assemblies almost always are, into adverse factions. This seems to me, therefore, to be precisely

that point of time at which the advantage of a complete written code of laws may most easily be conferred on India. It is a work which cannot be well performed in an age of barbarism, which cannot without great difficulty be performed in an age of freedom. It is a work which especially belongs to a government like that of India, to an enlightened and paternal despotism.

I have detained the House so long, Sir, that I will defer what I had to say on some parts of this measure, important parts, indeed, but far less important, as I think, than those to which I have adverted, till we are in Committee. There is, however, one part of the bill on which, after what has recently passed elsewhere, I feel myself irresistibly impelled to say a few words. I allude to that wise, that benevolent, that noble clause, which enacts that no native of our Indian empire shall, by reason of his colour, his descent, or his religion, be incapable of holding office. At the risk of being called by that nickname which is regarded as the most opprobrious of all nicknames by men of selfish hearts and contracted minds, at the risk of being called a philosopher, I must say that, to the last day of my life, I shall be proud of having been one of those who assisted in the framing of the bill which contains that clause. We are told that the time can never come when the natives of India can be admitted to high civil and military office. We are told that this is the condition on which we hold our power. We are told that we are bound to confer on our subjects every benefit — which they are capable of enjoying? — no; — which it is in our power to confer on them? — no; — but which we can confer on them without hazard to the perpetuity of our own

domination. Against that proposition I solemnly protest as inconsistent alike with sound policy and sound morality.

I am far, very far, from wishing to proceed hastily in this most delicate matter. I feel that, for the good of India itself, the admission of natives to high office must be effected by slow degrees. But that, when the fulness of time is come, when the interest of India requires the change, we ought to refuse to make that change lest we should endanger our own power, this is a doctrine of which I cannot think without indignation. Governments, like men, may buy existence too dear. "Propter vitam vivendi perdere causas," is a despicable policy both in individuals and in states. In the present case, such a policy would be not only despicable, but absurd. The mere extent of empire is not necessarily an advantage. To many governments it has been cumbersome; to some it has been fatal. It will be allowed by every statesman of our time that the prosperity of a community is made up of the prosperity of those who compose the community, and that it is the most childish ambition to covet dominion which adds to no man's comfort or security. To the great trading nation, to the great manufacturing nation, no progress which any portion of the human race can make in knowledge, in taste for the conveniences of life, or in the wealth by which those conveniences are produced, can be matter of indifference. It is scarcely possible to calculate the benefits which we might derive from the diffusion of European civilisation among the vast population of the East. It would be, on the most selfish view of the case, far better for us that the people of India were well governed and independent of us, than ill governed and subject to

us; that they were ruled by their own kings, but wearing our broadcloth, and working with our cutlery, than that they were performing their salams to English collectors and English magistrates, but were too ignorant to value, or too poor to buy, English manufactures. To trade with civilised men is infinitely more profitable than to govern savages. That would, indeed, be a doting wisdom, which, in order that India might remain a dependency, would make it an useless and costly dependency, which would keep a hundred millions of men from being our customers in order that they might continue to be our slaves.

It was, as Bernier tells us, the practice of the miserable tyrants whom he found in India, when they dreaded the capacity and spirit of some distinguished subject, and yet could not venture to murder him, to administer to him a daily dose of the pousta, a preparation of opium, the effect of which was in a few months to destroy all the bodily and mental powers of the wretch who was drugged with it, and to turn him into a helpless idiot. The detestable artifice, more horrible than assassination itself, was worthy of those who employed it. It is no model for the English nation. We shall never consent to administer the pousta to a whole community, to stupefy and paralyse a great people whom God has committed to our charge, for the wretched purpose of rendering them more amenable to our control. What is power worth if it is founded on vice, on ignorance, and on misery; if we can hold it only by violating the most sacred duties which as governors we owe to the governed, and which, as a people blessed with far more than an ordinary measure of political liberty and of intellectual light, we owe to a race debased by three

thousand years of despotism and priestcraft? We are free, we are civilised, to little purpose, if we grudge to any portion of the human race an equal measure of freedom and civilisation.

Are we to keep the people of India ignorant in order that we may keep them submissive? Or do we think that we can give them knowledge without awakening ambition? Or do we mean to awaken ambition and to provide it with no legitimate vent? Who will answer any of these questions in the affirmative? Yet one of them must be answered in the affirmative, by every person who maintains that we ought permanently to exclude the natives from high office. I have no fears. The path of duty is plain before us: and it is also the path of wisdom, of national prosperity, of national honour.

The destinies of our Indian Empire are covered with thick darkness. It is difficult to form any conjecture as to the fate reserved for a state which resembles no other in history, and which forms by itself a separate class of political phenomena. The laws which regulate its growth and its decay are still unknown to us. It may be that the public mind of India may expand under our system till it has outgrown that system; that by good government we may educate our subjects into a capacity for better government; that, having become instructed in European knowledge, they may, in some future age, demand European institutions. Whether such a day will ever come I know not. But never will I attempt to avert or to retard it. Whenever it comes, it will be the proudest day in English history. To have found a great people sunk in the lowest depths of slavery and superstition,

to have so ruled them as to have made them desirous and capable of all the privileges of citizens, would indeed be a title to glory all our own. The sceptre may pass away from us. Unforeseen accidents may derange our most profound schemes of policy. Victory may be inconstant to our arms. But there are triumphs which are followed by no reverse. There is an empire exempt from all natural causes of decay. Those triumphs are the pacific triumphs of reason over barbarism; that empire is the imperishable empire of our arts and our morals, our literature and our laws.

A SPEECH

DELIVERED AT EDINBURGH ON THE 29TH OF MAY, 1839.

The elevation of Mr. Abercromby to the peerage in May, 1839, caused a vacancy in the representation of the city of Edinburgh. A meeting of the electors was called to consider of the manner in which the vacancy should be supplied. At this meeting the following Speech was made: —

My Lord Provost and Gentlemen, —

At the request of a very large and respectable portion of your body, I appear before you as a candidate for a high and solemn trust, which, uninvited, I should have thought it presumption to solicit, but which, thus invited, I should think it cowardice to decline. If I had felt myself justified in following my own inclinations, I am not sure that even a summons so honourable as that which I have received would have been sufficient to draw me away from pursuits far better suited to my taste and temper than the turmoil of political warfare. But I feel that my lot is cast in times in which no man is free to judge, merely according to his own taste and temper, whether he will devote himself to active or to contemplative life; in times in which society has a right to demand, from every one of its members, active and strenuous exertions. I have, therefore, obeyed your call; and I now present myself before you for the purpose of offering to you, not, what I am sure you would reject with disdain, flattery, degrading alike to a candidate, and to a constituent body;

but such reasonable, candid, and manly explanations as become the mouth of a free man ambitious of the confidence of a free people.

It is hardly necessary for me to say that I stand here unconnected with this great community. It would be mere affectation not to acknowledge that with respect to local questions I have much to learn; but I hope that you will find in me no sluggish or inattentive learner. From an early age I have felt a strong interest in Edinburgh, although attached to Edinburgh by no other ties than those which are common to me with multitudes; that tie which attaches every man of Scottish blood to the ancient and renowned capital of our race; that tie which attaches every student of history to the spot ennobled by so many great and memorable events; that tie which attaches every traveller of taste to the most beautiful of British cities; and that tie which attaches every lover of literature to a place which, since it has ceased to be the seat of empire, has derived from poetry, philosophy, and eloquence a far higher distinction than empire can bestow. If to those ties it shall now be your pleasure to add a tie still closer and more peculiar, I can only assure you that it shall be the study of my life so to conduct myself in these our troubled times that you may have no reason to be ashamed of your choice.

Those Gentlemen who invited me to appear as a candidate before you were doubtless acquainted with the part which I took in public affairs during the three first Parliaments of the late King. Circumstances have since that time undergone great alteration; but no alteration has taken place in my principles. I do not mean to say that thought, discussion, and the new phenomena produced by the operation of a new repre-

sentative system, have not led me to modify some of my views on questions of detail; but, with respect to the fundamental principles of government, my opinions are still what they were when, in 1831 and 1832, I took part, according to the measure of my abilities, in that great pacific victory which purified the representative system of England, and which first gave a real representative system to Scotland. Even at that time, Gentlemen, the leaning of my mind was in favour of one measure to which the illustrious leader of the Whig party, whose name ought never to be mentioned without gratitude and reverence in any assembly of British electors, I mean Earl Grey, was understood to entertain strong objections, and to which his Cabinet, as a Cabinet, was invariably opposed. I speak of the vote by ballot. All that has passed since that time confirms me in the view which I was then inclined to take of that important question. At the same time I do not think that all the advantages are on one side and all the disadvantages on the other. I must admit that the effect of the practice of secret voting would be to withdraw the voter from the operation of some salutary and honourable, as well as of some pernicious and degrading motives. But seeing, as I cannot help seeing, that the practice of intimidation, instead of diminishing, is gaining ground, I am compelled to consider whether the time has not arrived when we are bound to apply what seems the only efficient remedy. And I am compelled to consider whether, in doing so, I am not strictly following the principles of the Reform Bill to the legitimate conclusions. For surely those who supported the Reform Bill intended to give the people of Britain a reality, not a delusion; to destroy nomination, and not to make an outward show of destroying it; to bestow

the franchise, and not the name of the franchise ; and least of all, to give suffering and humiliation under the name of the franchise. If men are to be returned to Parliament, not by popular election, but by nomination, then I say without hesitation that the ancient system was much the best. Both systems alike sent men to Parliament who were not freely chosen by independent constituent bodies: but under the old system there was little or no need of intimidation, while, under the new system, we have the misery and disgrace produced by intimidation added to the process. If, therefore, we are to have nomination, I prefer the nomination which used to take place at Old Sarum to the nomination which now takes place at Newark. In both cases you have members returned at the will of one landed proprietor: but at Newark you have two hundred ejectments into the bargain, to say nothing of the mortification and remorse endured by all those who, though they were not ejected, yet voted against their consciences from fear of ejectment.

There is perhaps no point on which good men of all parties are more completely agreed than on the necessity of restraining and punishing corruption in the election of Members of Parliament. The evils of corruption are doubtless very great; but it appears to me that those evils which are attributed to corruption may, with equal justice, be attributed to intimidation, and that intimidation produces also some monstrous evils with which corruption cannot be reproached. In both cases alike the elector commits a breach of trust. In both cases alike he employs for his own advantage an important power which was confided to him, that it might be used, to the best of his judgment, for the general good of the community. Thus far corruption and in-

timidation operate in the same manner. But there is this difference betwixt the two systems; corruption operates by giving pleasure, intimidation by giving pain. To give a poor man five pounds causes no pain: on the contrary it produces pleasure. It is in itself no bad act: indeed, if the five pounds were given on another occasion, and without a corrupt object, it might pass for a benevolent act. But to tell a man that you will reduce him to a situation in which he will miss his former comforts, and in which his family will be forced to beg their bread, is a cruel act. Corruption has a sort of illegitimate relationship to benevolence, and engenders some feelings of a cordial and friendly nature. There is a notion of charity connected with the distribution of the money of the rich among the needy, even in a corrupt manner. The comic writer who tells us that the whole system of corruption is to be considered as a commerce of generosity on one side and of gratitude on the other, has rather exaggerated than misrepresented what really takes place in many of these English constituent bodies where money is lavished to conciliate the favour and obtain the suffrages of the people. But in intimidation the whole process is an odious one. The whole feeling on the part of the elector is that of shame, degradation, and hatred of the person to whom he has given his vote. The elector is indeed placed in a worse situation than if he had no vote at all; for there is not one of us who would not rather be without a vote than be compelled to give it to the person whom he dislikes above all others.

Thinking, therefore, that the practice of intimidation has all the evils which are to be found in corruption, and that it has other evils which are not to be found in corruption, I was naturally led to consider whether it

was possible to prevent it by any process similar to that by which corruption is restrained. Corruption, you all know, is the subject of penal laws. If it is brought home to the parties, they are liable to severe punishment. Although it is not often that it can be brought home, yet there are instances. I remember several men of large property confined in Newgate for corruption. Penalties have been awarded against offenders to the amount of five hundred pounds. Many members of Parliament have been unseated on account of the malpractices of their agents. But you cannot, I am afraid, repress intimidation by penal laws. Such laws would infringe the most sacred rights of property. How can I require a man to deal with tradesmen who have voted against him, or to renew the leases of tenants who have voted against him? What is it that the Jew says in the play?

> "I 'll not answer that,
> But say it is my humour."

Or, as a Christian of our own time has expressed himself, "I have a right to do what I will with my own." There is a great deal of weight in the reasoning of Shylock and the Duke of Newcastle. There would be an end of the right of property if you were to interdict a landlord from ejecting a tenant, if you were to force a gentleman to employ a particular butcher, and to take as much beef this year as last year. The principle of the right of property is that a man is not only to be allowed to dispose of his wealth rationally and usefully, but to be allowed to indulge his passions and caprices, to employ whatever tradesmen and labourers he chooses, and to let, or refuse to let, his land according to his own pleasure, without giving any reason or asking anybody's leave. I remember that, on one of

the first evenings on which I sate in the House of Commons, Mr. Poulett Thompson proposed a censure on the Duke of Newcastle for His Grace's conduct towards the electors of Newark. Sir Robert Peel opposed the motion, not only with considerable ability, but with really unanswerable reasons. He asked if it was meant that a tenant who voted against his landlord was to keep his lease forever. If so, tenants would vote against a landlord to secure themselves, as they now vote with a landlord to secure themselves. I thought, and think, this argument unanswerable; but then it is unanswerable in favour of the ballot; for, if it be impossible to deal with intimidation by punishment, you are bound to consider whether there be any means of prevention; and the only mode of prevention that has ever been suggested is the ballot. That the ballot has disadvantages, to be set off against its advantages, I admit; but it appears to me that we have only a choice of evils, and that the evils for which the ballot is a specific remedy are greater than any which the ballot is likely to produce. Observe with what exquisite accuracy the ballot draws the line of distinction between the power which we ought to give to the proprietor and the power which we ought not to give him. It leaves the proprietor the absolute power to do what he will with his own. Nobody calls upon him to say why he ejected this tenant, or took away his custom from that tradesman. It leaves him at liberty to follow his own tastes, to follow his strangest whims. The only thing which it puts beyond his power is the vote of the tenant, the vote of the tradesman, which it is our duty to protect. I ought at the same time to say, that there is one objection to the ballot of a very serious nature,

but which I think may, nevertheless, be obviated. It is quite clear that, if the ballot shall be adopted, there will be no remedy for an undue return by a subsequent scrutiny. Unless, therefore, the registration of votes can be counted on as correct, the ballot will undoubtedly lead to great inconvenience. It seems, therefore, that a careful revision of the whole system of registration, and an improvement of the tribunal before which the rights of the electors are to be established, should be an inseparable part of any measure by which the ballot is to be introduced.

As to those evils which we have been considering, they are evils which are practically felt; they are evils which press hard upon a large portion of the constituent body; and it is not therefore strange, that the cry for a remedy should be loud and urgent. But there is another subject, respecting which I am told that many among you are anxious, a subject of a very different description. I allude to the duration of Parliaments.

It must be admitted that for some years past we have had little reason to complain of the length of Parliaments. Since the year 1830 we have had five general elections; two occasioned by the deaths of two Sovereigns, and three by political conjunctures. As to the present Parliament, I do not think that, whatever opinion gentlemen may entertain of the conduct of that body, they will impute its faults to any confidence which the members have that they are to sit for seven years; for I very much question whether there be one gentleman in the House of Commons who thinks, or has ever thought, that his seat is worth three years' purchase. When, therefore, we discuss this question, we must remember that we are discussing a question not immediately pressing. I freely admit, however,

that this is no reason for not fairly considering the subject: for it is the part of wise men to provide against evils which, though not actually felt, may be reasonably apprehended. It seems to me that here, as in the case of the ballot, there are serious considerations to be urged on both sides. The objections to long Parliaments are perfectly obvious. The truth is that, in very long Parliaments, you have no representation at all. The mind of the people goes on changing; and the Parliament, remaining unchanged, ceases to reflect the opinion of the constituent bodies. In the old times before the Revolution, a Parliament might sit during the life of the monarch. Parliaments were then sometimes of eighteen or twenty years' duration. Thus the Parliament called by Charles the Second soon after his return from exile, and elected when the nation was drunk with hope and convulsed by a hysterical paroxysm of loyalty, continued to sit long after two thirds of those who had heartily welcomed the King back from Holland as heartily wished him in Holland again. Since the Revolution we have not felt that evil to the same extent; but it must be admitted that the term of seven years is too long. There are, however, other considerations to set off against this. There are two very serious evils connected with every general election: the first is, the violent political excitement; the second is, the ruinous expense. Both these evils were very greatly diminished by the Reform Act. Formerly, these were things which you in Scotland knew nothing about; but in England the injury to the peace and morals of society resulting from a general election was incalculable. During a fifteen days' poll in a town of one hundred thousand inhabitants, money was flowing in all directions; the streets were running with

beer; all business was suspended; and there was nothing but disturbance and riot, and slander, and calumny, and quarrels, which left in the bosoms of private families heartburnings such as were not extinguished in the course of many years. By limiting the duration of the poll, the Reform Act has conferred as great a blessing on the country — and that is saying a bold word — as by any other provision which it contains. Still it is not to be denied that there are evils inseparable from that state of political excitement into which every community is thrown by the preparations for an election. A still greater evil is the expense. That evil too has been diminished by the operation of the Reform Act; but it still exists to a considerable extent. We do not now indeed hear of such elections as that of Yorkshire in 1807, or that of Northumberland in 1827. We do not hear of elections that cost two hundred thousand pounds. But that the tenth part of that sum, nay, that the hundredth part of that sum should be expended in a contest, is a great evil. Do not imagine, Gentlemen, that all this evil falls on the candidates. It is on you that the evil falls. The effect must necessarily be to limit you in your choice of able men to serve you. The number of men who can advance fifty thousand pounds is necessarily much smaller than the number of men who can advance five thousand pounds; the number of these again, is much smaller than the number of those who can advance five hundred pounds; and the number of men who can advance five hundred pounds every three years is necessarily smaller than the number of those who can advance five hundred pounds every seven years. Therefore it seems to me that the question is one of comparison. In long Parliaments the representative

character is in some measure effaced. On the other side, if you have short Parliaments, your choice of men will be limited. Now in all questions of this sort, it is the part of wisdom to weigh, not indeed with minute accuracy, — for questions of civil prudence cannot be subjected to an arithmetical test, — but to weigh the advantages and disadvantages carefully, and then to strike the balance. Gentlemen will probably judge according to their habits of mind, and according to their opportunities of observation. Those who have seen much of the evils of elections will probably incline to long Parliaments; those who have seen little or nothing of these evils will probably incline to a short term. Only observe this, that, whatever may be the legal term, it ought to be a year longer than that for which Parliaments ought ordinarily to sit. For there must be a general election at the end of the legal term, let the state of the country be what it may. There may be riot; there may be revolution; there may be famine in the country; and yet if the Minister wait to the end of the legal term, the writs must go out. A wise Minister will therefore always dissolve the Parliament a year before the end of the legal term, if the country be then in a quiet state. It has now been long the practice not to keep a Parliament more than six years. Thus the Parliament which was elected in 1784 sate till 1790, six years; the Parliament of 1790 till 1796, the Parliament of 1796 to 1802, the Parliament of 1812 to 1818, and the Parliament of 1820 till 1826. If, therefore, you wish the duration of Parliaments to be shortened to three years, the proper course would be to fix the legal term at four years; and if you wish them to sit for four years, the proper course would be to fix the legal term at

five years. My own inclination would be to fix the legal term at five years, and thus to have a Parliament practically every four years. I ought to add that, whenever any shortening of Parliaments takes place, we ought to alter that rule which requires that Parliament shall be dissolved as often as a demise of the Crown takes place. It is a rule for which no statesmanlike reason can be given; it is a mere technical rule; and it has already been so much relaxed that, even considered as a technical rule, it is absurd.

I come now to another subject, of the highest and gravest importance: I mean the elective franchise; and I acknowledge that I am doubtful whether my opinions on this subject may be so pleasing to many here present as, if I may judge from your expressions, my sentiments on other subjects have been. I shall express my opinions, however, on this subject as frankly as I have expressed them when they may have been more pleasing. I shall express them with the frankness of a man who is more desirous to gain your esteem than to gain your votes. I am for the original principle of the Reform Bill. I think that principle excellent; and I am sorry that we ever deviated from it. There were two deviations to which I was strongly opposed, and to which the authors of the bill, hard pressed by their opponents and feebly supported by their friends, very unwillingly consented. One was the admission of the freemen to vote in towns: the other was the admission of the fifty pound tenants at will to vote in counties. At the same time I must say that I despair of being able to apply a direct remedy to either of these evils. The ballot might perhaps be an indirect remedy for the latter. I think that the system of registration should be amended, that the clauses relating to

the payment of rates should be altered, or altogether removed, and that the elective franchise should be extended to every ten pound householder, whether he resides within or without the limits of a town. To this extent I am prepared to go; but I should not be dealing with the ingenuousness which you have a right to expect, if I did not tell you that I am not prepared to go farther. There are many other questions as to which you are entitled to know the opinions of your representative: but I shall only glance rapidly at the most important. I have ever been a most determined enemy to the slave trade, and to personal slavery under every form. I have always been a friend to popular education. I have always been a friend to the right of free discussion. I have always been adverse to all restrictions on trade, and especially to those restrictions which affect the price of the necessaries of life. I have always been adverse to religious persecution, whether it takes the form of direct penal laws, or of civil disabilities.

Now, having said so much upon measures, I hope you will permit me to say something about men. If you send me as your representative to Parliament, I wish you to understand that I shall go there determined to support the present Ministry. I shall do so not from any personal interest or feeling. I have certainly the happiness to have several kind and much valued friends among the members of the Government; and there is one member of the Government, the noble President of the Council, to whom I owe obligations which I shall always be proud to avow. That noble Lord, when I was utterly unknown in public life, and scarcely known even to himself, placed me in the House of Commons; and it is due to him to say that he never in the least interfered with the freedom of my par-

liamentary conduct. I have since represented a great constituent body, for whose confidence and kindness I can never be sufficiently grateful, I mean the populous borough of Leeds. I may possibly by your kindness be placed in the proud situation of Representative of Edinburgh ; but I never could and never can be a more independent Member of the House of Commons than when I sat there as the nominee of Lord Lansdowne. But, while I acknowledge my obligations to that noble person, while I avow the friendship which I feel for many of his colleagues, it is not on such grounds that I vindicate the support which it is my intention to give them. I have no right to sacrifice your interests to my personal or private feelings : my principles do not permit me to do so ; nor do my friends expect that I should do so. The support which I propose to give to the present Ministry I shall give on the following grounds. I believe the present Ministry to be by many degrees the best Ministry which, in the present state of the country, can be formed. I believe that we have only one choice. I believe that our choice is between a Ministry substantially, — for of course I do not speak of particular individuals, — between a Ministry substantially the same that we have, and a Ministry under the direction of the Duke of Wellington and Sir Robert Peel. I do not hesitate to pronounce that my choice is in favour of the former. Some gentleman appears to dissent from what I say. If I knew what his objections are, I would try to remove them. But it is impossible to answer inarticulate noises. Is the objection that the Government is too conservative ? Or is the objection that the Government is too radical ? If I understand rightly, the objection is that the Government does not proceed vigorously enough in the work of Re-

form. To that objection then I will address myself. Now, I am far from denying that the Ministers have committed faults. But, at the same time, I make allowances for the difficulties with which they are contending; and, having made these allowances, I confidently say that, when I look back at the past, I think them entitled to praise, and that, looking forward to the future, I can pronounce with still more confidence that they are entitled to support.

It is a common error, and one which I have found among men, not only intelligent, but much conversant in public business, to think that in politics, legislation is everything and administration nothing. Nothing is more usual than to hear people say, "What! another session gone and nothing done; no new bills passed; the Irish Municipal Bill stopped in the House of Lords. How could we be worse off if the Tories were in?" My answer is that, if the Tories were in our legislation would be in as bad a state as at present, and we should have a bad administration into the bargain. It seems strange to me that gentlemen should not be aware that it may be better to have unreformed laws administered in a reforming spirit, than reformed laws administered in a spirit hostile to all reform. We often hear the maxim, "Measures not men," and there is a sense in which it is an excellent maxim. Measures not men, certainly: that is, we are not to oppose Sir Robert Peel simply because he is Sir Robert Peel, or to support Lord John Russell simply because he is Lord John Russell. We are not to follow our political leaders in the way in which my honest Highland ancestors followed their chieftains. We are not to imitate that blind devotion which led all the Campbells to take the side of George the Second because the Duke of

Argyle was a Whig, and all the Camerons to take the side of the Stuarts because Lochiel was a Jacobite. But if you mean that, while the laws remain the same, it is unimportant by whom they are administered, then I say that a doctrine more absurd was never uttered. Why, what are laws? They are mere words; they are a dead letter; till a living agent comes to put life into them. This is the case even in judicial matters. You can tie up the judges of the land much more closely than it would be right to tie up the Secretary for the Home Department or the Secretary for Foreign Affairs. Yet is it immaterial whether the laws be administered by Chief Justice Hale or Chief Justice Jeffreys? And can you doubt that the case is still stronger when you come to political questions? It would be perfectly easy, as many of you must be aware, to point out instances in which society has prospered under defective laws, well administered, and other instances in which society has been miserable under institutions that looked well on paper. But we need not go beyond our own country and our own times. Let us see what, within this island and in the present year, a good administration has done to mitigate bad laws. For example, let us take the law of libel. I hold the present state of our law of libel to be a scandal to a civilised community. Nothing more absurd can be found in the whole history of jurisprudence. How the law of libel was abused formerly, you all know. You all know how it was abused under the administrations of Lord North, of Mr. Pitt, of Mr. Perceval, of the Earl of Liverpool; and I am sorry to say that it was abused, most unjustifiably abused, by Lord Abinger, under the administration of the Duke of Wellington and Sir Robert Peel. Now is there any

person who will pretend to say that it has ever been abused by the Government of Lord Melbourne? That Government has enemies in abundance; it has been attacked by Tory malcontents and by Radical malcontents; but has any one of them ever had the effrontery to say that it has abused the power of filing *ex officio* informations for libel? Has this been from want of provocation? On the contrary, the present Government has been libelled in a way in which no Government was ever libelled before. Has the law been altered? Has it been modified? Not at all. We have exactly the same laws that we had when Mr. Perry was brought to trial for saying that George the Third was unpopular, Mr. Leigh Hunt for saying that George the Fourth was fat, and Sir Francis Burdett for expressing, not perhaps in the best taste, a natural and honest indignation at the slaughter which took place at Manchester in 1819. The law is precisely the same; but if it had been entirely remodelled, political writers could not have had more liberty than they have enjoyed since Lord Melbourne came into power.

I have given you an instance of the power of a good administration to mitigate a bad law. Now, see how necessary it is that there should be a good administration to carry a good law into effect. An excellent bill was brought into the House of Commons by Lord John Russell in 1828, and passed. To any other man than Lord John Russell the carrying of such a bill would have been an enviable distinction indeed; but his name is identified with still greater reforms. It will, however, always be accounted one of his titles to public gratitude that he was the author of the law which repealed the Test Act. Well, a short time since, a noble peer, the Lord Lieutenant of the county

of Nottingham, thought fit to reënact the Test Act, so far as that county was concerned. I have already mentioned his Grace the Duke of Newcastle, and, to say truth, there is no life richer in illustrations of all forms and branches of misgovernment than his. His Grace very coolly informed Her Majesty's Ministers that he had not recommended a certain gentleman for the commission of the peace because the gentleman was a Dissenter. Now here is a law which admits Dissenters to offices; and a Tory nobleman takes it on himself to rescind that law. But happily we have Whig ministers. What did they do? Why, they put the Dissenter into the Commission; and they turned the Tory nobleman out of the Lieutenancy. Do you seriously imagine that under a Tory administration this would have been done? I have no wish to say anything disrespectful of the great Tory leaders. I shall always speak with respect of the great qualities and public services of the Duke of Wellington: I have no other feeling about him than one of pride that my country has produced so great a man; nor do I feel anything but respect and kindness for Sir Robert Peel, of whose abilities no person that has had to encounter him in debate will ever speak slightingly. I do not imagine that those eminent men would have approved of the conduct of the Duke of Newcastle. I believe that the Duke of Wellington would as soon have thought of running away from the field of battle as of doing the same thing in Hampshire, where he is Lord Lieutenant. But do you believe that he would have turned the Duke of Newcastle out? I believe that he would not. As Mr. Pulteney, a great political leader, said a hundred years since, "The heads of parties are, like the heads of snakes, carried on by the tails." It would

have been utterly impossible for the Tory Ministers to have discarded the powerful Tory Duke, unless they had at the same time resolved, like Mr. Canning in 1827, to throw themselves for support on the Whigs.

Now I have given you these two instances to show that a change in the administration may produce all the effects of a change in the law. You see that to have a Tory Government is virtually to reënact the Test Act, and that to have a Whig Government is virtually to repeal the law of libel. And if this is the case in England and Scotland, where society is in a sound state, how much more must it be the case in the diseased part of the empire, in Ireland? Ask any man there, whatever may be his religion, whatever may be his politics, Churchman, Presbyterian, Roman Catholic, Repealer, Precursor, Orangeman, — ask Mr. O'Connell, ask Colonel Conolly, whether it is a slight matter in whose hands the executive power is lodged. Every Irishman will tell you that it is a matter of life and death; that in fact more depends upon the men than upon the laws. It disgusts me therefore to hear men of liberal politics say, "What is the use of a Whig Government? The Ministers can do nothing for the country. They have been four years at work on an Irish Municipal Bill, without being able to pass it through the Lords." Would any ten Acts of Parliament make such a difference to Ireland as the difference between having Lord Ebrington for Lord Lieutenant, with Lord Morpeth for Secretary, and having the Earl of Roden for Lord Lieutenant, with Mr. Lefroy for Secretary? Ask the popular Irish leaders whether they would like better to remain as they are, with Lord Ebrington as Lord Lieutenant, or to have the Municipal Bill,

and any other three bills which they might name, with Lord Roden for Viceroy; and they will at once answer, "Leave us Lord Ebrington; and burn your bills." The truth is that, the more defective the legislation, the more important is a good administration, just as the personal qualities of a Sovereign are of more importance in despotic countries like Russia than in a limited monarchy. If we have not in our Statute Book all the securities necessary for good government, it is of the more importance that the character of the men who administer the government should be an additional security.

But we are told that the Government is weak. That is most true: and I believe that almost all that we are tempted to blame in the conduct of the Government is to be attributed to weakness. But let us consider what the nature of this weakness is. Is it that kind of weakness which makes it our duty to oppose the Government? Or is it that kind of weakness which makes it our duty to support the Government? Is it intellectual weakness, moral weakness, the incapacity to discern, or the want of courage to pursue, the true interest of the nation? Such was the weakness of Mr. Addington, when this country was threatened with invasion from Boulogne. Such was the weakness of the Government which sent out the wretched Walcheren expedition, and starved the Duke of Wellington in Spain; a government whose only strength was shown in prosecuting writers who exposed abuses, and in slaughtering rioters whom oppression had driven into outrage. Is that the weakness of the present Government? I think not. As compared with any other party capable of holding the reins of Government, they are deficient neither in

intellectual nor in moral strength. On all great questions of difference between the Ministers and the Opposition, I hold the Ministers to be in the right. When I consider the difficulties with which they have to struggle, when I see how manfully that struggle is maintained by Lord Melbourne, when I see that Lord John Russell has excited even the admiration of his opponents by the heroic manner in which he has gone on, year after year, in sickness and domestic sorrow, fighting the battle of Reform, I am led to the conclusion that the weakness of the Ministers is of that sort which makes it our duty to give them, not opposition, but support; and that support it is my purpose to afford to the best of my ability.

If, indeed, I thought myself at liberty to consult my own inclination, I should have stood aloof from the conflict. If you should be pleased to send me to Parliament, I shall enter an assembly very different from that which I quitted in 1834. I left the Whigs united and dominant, strong in the confidence and attachment of one House of Parliament, strong also in the fears of the other. I shall return to find them helpless in the Lords, and forced almost every week to fight a battle for existence in the Commons. Many, whom I left bound together by what seemed indissoluble private and public ties, I shall now find assailing each other with more than the ordinary bitterness of political hostility. Many with whom I sate side by side, contending through whole nights for the Reform Bill, till the sun broke over the Thames on our undiminished ranks, I shall now find on hostile benches. I shall be compelled to engage in painful altercations with many with whom I had hoped never to have a

conflict, except in the generous and friendly strife which should best serve the common cause. I left the Liberal Government strong enough to maintain itself against an adverse Court; I see that the Liberal Government now rests for support on the preference of a sovereign, in whom the country sees with delight the promise of a better, a gentler, a happier Elizabeth, of a sovereign in whom we hope that our children and our grandchildren will admire the firmness, the sagacity, and the spirit which distinguished the last and greatest of the Tudors, tempered by the beneficent influence of more humane times and more popular institutions. Whether royal favour, never more needed and never better deserved, will enable the Government to surmount the difficulties with which it has to deal, I cannot presume to judge. It may be that the blow has only been deferred for a season, and that a long period of Tory domination is before us. Be it so. I entered public life a Whig; and a Whig I am determined to remain. I use that word, and I wish you to understand that I use it, in no narrow sense. I mean by a Whig, not one who subscribes implicitly to the contents of any book, though that book may have been written by Locke; not one who approves the whole conduct of any statesman, though that statesman may have been Fox; not one who adopts the opinions in fashion in any circle, though that circle may be composed of the finest and noblest spirits of the age. But it seems to me that, when I look back on our history, I can discern a great party which has, through many generations, preserved its identity; a party often depressed, never extinguished; a party which, though often tainted with the faults of the age, has always been in advance of the age;

a party which, though guilty of many errors and some crimes, has the glory of having established our civil and religious liberties on a firm foundation; and of that party I am proud to be a member. It was that party which, on the great question of monopolies, stood up against Elizabeth. It was that party which, in the reign of James the First, organised the earliest parliamentary opposition, which steadily asserted the privileges of the people, and wrested prerogative after prerogative from the Crown. It was that party which forced Charles the First to relinquish the Ship-money. It was that party which destroyed the Star Chamber and the High Commission Court. It was that party which, under Charles the Second, carried the Habeas Corpus Act, which effected the Revolution, which passed the Toleration Act, which broke the yoke of a foreign church in your country, and which saved Scotland from the fate of unhappy Ireland. It was that party which reared and maintained the constitutional throne of Hanover against the hostility of the Church and of the landed aristocracy of England. It was that party which opposed the war with America and the war with the French Republic; which imparted the blessings of our free Constitution to the Dissenters; and which, at a later period, by unparalleled sacrifices and exertions, extended the same blessings to the Roman Catholics. To the Whigs of the seventeenth century we owe it that we have a House of Commons. To the Whigs of the nineteenth century we owe it that the House of Commons has been purified. The abolition of the slave trade, the abolition of colonial slavery, the extension of popular education, the mitigation of the rigour of the penal code, all, all were effected by

that party; and of that party, I repeat, I am a member. I look with pride on all that the Whigs have done for the cause of human freedom and of human happiness. I see them now hard pressed, struggling with difficulties, but still fighting the good fight. At their head I see men who have inherited the spirit and the virtues, as well as the blood, of old champions and martyrs of freedom. To those men I propose to attach myself. Delusion may triumph; but the triumphs of delusion are but for a day. We may be defeated: but our principles will only gather fresh strength from defeats. Be that, however, as it may, my part is taken. While one shred of the old banner is flying, by that banner will I at least be found. The good old cause, as Sidney called it on the scaffold, vanquished or victorious, insulted or triumphant, the good old cause is still the good old cause with me. Whether in or out of Parliament, whether speaking with that authority which must always belong to the representative of this great and enlightened community, or expressing the humble sentiments of a private citizen, I will to the last maintain inviolate my fidelity to principles which, though they may be borne down for a time by senseless clamour, are yet strong with the strength and immortal with the immortality of truth, and which, however they may be misunderstood or misrepresented by contemporaries, will assuredly find justice from a better age. Gentlemen, I have done. I have only to thank you for the kind attention with which you have heard me, and to express my hope that, whether my principles have met with your concurrence or not, the frankness with which I have expressed them will at least obtain your approbation.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 29TH OF JANUARY, 1840.

On the twenty-eighth of January, 1840, Sir John Yarde Buller moved the following resolution: —

"That Her Majesty's Government, as at present constituted, does not possess the confidence of the House."

After a discussion of four nights the motion was rejected by 308 votes to 287. The following Speech was made on the second night of the debate: —

THE House, Sir, may possibly imagine that I rise under some little feeling of irritation to reply to the personal reflections which have been introduced into the discussion. It would be easy to reply to these reflections; it would be still easier to retort them: but I should think either course unworthy of me and of this great occasion. If ever I should so far forget myself as to wander from the subject of debate to matters concerning only myself, it will not, I hope, be at a time when the dearest interests of our country are staked on the result of our deliberations. I rise under feelings of anxiety which leave no room in my mind for selfish vanity or petty vindictiveness. I believe with the most intense conviction that, in pleading for the Government to which I belong, I am pleading for the safety of the Commonwealth, for the reformation of abuses, and at the same time for the preservation of august and venerable institutions: and I trust, Mr.

Speaker, that when the question is whether a Cabinet be or be not worthy of the confidence of Parliament, the first Member of that Cabinet who comes forward to defend himself and his colleagues will find here some portion of that generosity and good feeling which once distinguished English gentlemen. But be this as it may, my voice shall be heard. I repeat, that I am pleading at once for the reformation and for the preservation of our institutions, for liberty and order, for justice administered in mercy, for equal laws, for the rights of conscience, and for the real union of Great Britain and Ireland. If, on so grave an occasion, I should advert to one or two of the charges which have been brought against myself personally, I shall do so only because I conceive that those charges affect in some degree the character of the Government to which I belong.

One of the chief accusations brought against the Government by the honourable Baronet[1] who opened the debate, and repeated by the seconder,[2] and by almost every gentleman who has addressed the House from the benches opposite, is that I have been invited to take office though my opinion with respect to the Ballot is known to be different from that of my colleagues. We have been repeatedly told that a Ministry in which there is not perfect unanimity on a subject so important must be undeserving of the public confidence. Now, Sir, it is true that I am in favour of secret voting, that my noble and right honourable friends near me are in favour of open voting, and yet that we sit in the same Cabinet. But if, on account of this difference of opinion, the Government is unworthy of public confidence, then I am sure that

[1] Sir John Yarde Buller. [2] Alderman Thompson.

scarcely any government which has existed within the memory of the oldest man has been deserving of public confidence. It is well known that in the Cabinets of Mr. Pitt, of Mr. Fox, of Lord Liverpool, of Mr. Canning, of the Duke of Wellington, there were open questions of great moment. Mr. Pitt, while still zealous for parliamentary reform, brought into the Cabinet Lord Grenville, who was adverse to parliamentary reform. Again, Mr. Pitt, while eloquently supporting the abolition of the Slave Trade, brought into the Cabinet Mr. Dundas, who was the chief defender of the Slave Trade. Mr. Fox, too, intense as was his abhorrence of the Slave Trade, sat in the same Cabinet with Lord Sidmouth and Mr. Windham, who voted to the last against the abolition of that trade. Lord Liverpool, Mr. Canning, the Duke of Wellington, all left the question of Catholic Emancipation open. And yet, of all questions, that was perhaps the very last that should have been left open. For it was not merely a legislative question, but a question which affected every part of the executive administration. But, to come to the present time, suppose that you could carry your resolution, suppose that you could drive the present Ministers from power, who that may succeed them will be able to form a government in which there will be no open questions? Can the right honourable Baronet, the Member for Tamworth,[1] form a Cabinet without leaving the great question of our privileges open? In what respect is that question less important than the question of the Ballot? Is it not indeed from the privileges of the House that all questions relating to the constitution of the House derive their importance? What does it matter how we are chosen,

[1] Sir Robert Peel.

if, when we meet, we do not possess the powers necessary to enable us to perform the functions of a legislative assembly? Yet you, who would turn out the present Ministers because they differ from each other as to the way in which Members of this House should be chosen, wish to bring in men who decidedly differ from each other as to the relation in which this House stands to the nation, to the other House, and to the Courts of Judicature. Will you say that the dispute between the House and the Court of Queen's Bench is a trifling dispute? Surely, in the late debates, you were all perfectly agreed as to the importance of the question, though you were agreed as to nothing else. Some of you told us that we were contending for a power essential to our honour and usefulness. Many of you protested against our proceedings, and declared that we were encroaching on the province of the tribunals, violating the liberty of our fellow citizens, punishing honest magistrates for not perjuring themselves. Are these trifles? And can we believe that you really feel a horror of open questions when we see your Prime Minister elect sending people to prison overnight, and his law officers elect respectfully attending the levee of those prisoners the next morning? Observe, too, that this question of privileges is not merely important; it is also pressing. Something must be done, and that speedily. My belief is that more inconvenience would follow from leaving that question open one month than from leaving the question of the Ballot open ten years.

The Ballot, Sir, is not the only subject on which I am accused of holding dangerous opinions. The right honourable Baronet, the Member for Pembroke,[1] pro-

[1] Sir James Graham.

nounces the present Government a Chartist Government; and he proves his point by saying that I am a member of the government, and that I wish to give the elective franchise to every ten pound householder, whether his house be in a town or in the country. Is it possible, Sir, that the honourable Baronet should not know that the fundamental principle of the plan of government called the People's Charter is that every male of twenty-one should have a vote? Or is it possible that he can see no difference between giving the franchise to all ten pound householders, and giving the franchise to all males of twenty-one? Does he think the ten pound householders a class morally or intellectually unfit to possess the franchise, he who bore a chief part in framing the law which gave them the franchise in all the represented towns of the United Kingdom? Or will he say that the ten pound householder in a town is morally and intellectually fit to be elector, but that the ten pound householder who lives in the open country is morally and intellectually unfit? Is not house rent notoriously higher in towns than in the country? Is it not, therefore, probable that the occupant of a ten pound house in a rural hamlet will be a man who has a greater stake in the peace and welfare of society than a man who has a ten pound house in Manchester or Birmingham? Can you defend on conservative principles an arrangement which gives votes to a poorer class and withholds them from a richer? For my own part, I believe it to be essential to the welfare of the state, that the elector should have a pecuniary qualification. I believe that the ten pound qualification cannot be proved to be either too high or too low. Changes, which may hereafter take place in the value of money and in the condition of the people,

may make a change of the qualification necessary. But the ten pound qualification is, I believe, well suited to the present state of things. At any rate I am unable to conceive why it should be a sufficient qualification within the limits of a borough, and an insufficient qualification a yard beyond those limits; sufficient at Knightsbridge, but insufficient at Kensington; sufficient at Lambeth, but insufficient at Battersea? If any person calls this Chartism, he must permit me to tell him that he does not know what Chartism is.

A motion, Sir, such as that which we are considering, brings under our review the whole policy of the kingdom, domestic, foreign, and colonial. It is not strange, therefore, that there should have been several episodes in this debate. Something has been said about the hostilities on the River Plata, something about the hostilities on the coast of China, something about Commissioner Lin, something about Captain Elliot. But on such points I shall not dwell, for it is evidently not by the opinion which the House may entertain on such points that the event of the debate will be decided. The main argument of the gentlemen who support the motion, the argument on which the right honourable Baronet who opened the debate chiefly relied, the argument which his seconder repeated, and which has formed the substance of every speech since delivered from the opposite side of the House, may be fairly summed up thus, "The country is not in a satisfactory state. There is much recklessness, much turbulence, much craving for political change; and the cause of these evils is the policy of the Whigs. They rose to power by agitation in 1830; they retained power by means of agitation through the

tempestuous months which followed; they carried the Reform Bill by means of agitation: expelled from office, they forced themselves in again by means of agitation; and now we are paying the penalty of their misconduct. Chartism is the natural offspring of Whiggism. From those who caused the evil we cannot expect the remedy. The first thing to be done is to dismiss them, and to call to power men who, not having instigated the people to commit excesses, can, without incurring the charge of inconsistency, enforce the laws."

Now, Sir, it seems to me that this argument was completely refuted by the able and eloquent speech of my right honourable friend, the Judge Advocate.[1] He said, and he said most truly, that those who hold this language are really accusing, not the Government of Lord Melbourne, but the Government of Lord Grey. I was therefore, I must say, surprised, after the speech of my right honourable friend, to hear the right honourable Baronet, the Member for Pembroke, himself a distinguished member of the cabinet of Lord Grey, pronounce a harangue against agitation. That he was himself an agitator he does not venture to deny; but he tries to excuse himself by saying, "I liked the Reform Bill; I thought it a good bill; and so I agitated for it; and, in agitating for it, I acknowledge that I went to the very utmost limit of what was prudent, to the very utmost limit of what was legal." Does not the right honourable Baronet perceive that, by setting up this defence for his own past conduct, he admits that agitation is good or evil according as the objects of the agitation are good or evil? When I hear him speak of agitation as a practice disgraceful to a public man, and especially to a Minister of the Crown, and

[1] Sir George Grey.

address his lecture in a particular manner to me, I cannot but wonder that he should not perceive that his reproaches, instead of wounding me, recoil on himself. I was not a member of the Cabinet which brought in the Reform Bill, which dissolved the Parliament in a moment of intense excitement in order to carry the Reform Bill, which refused to serve the Sovereign longer unless he would create peers in sufficient numbers to carry the Reform Bill. I was at that time only one of those hundreds of members of this House, one of those millions of Englishmen, who were deeply impressed with the conviction that the Reform Bill was one of the best laws that ever had been framed, and who reposed entire confidence in the abilities, the integrity, and the patriotism of the ministers; and I must add that in no member of the administration did I place more confidence than in the right honourable Baronet, who was then First Lord of the Admiralty, and in the noble lord who was then Secretary for Ireland.[1] It was indeed impossible for me not to see that the public mind was strongly, was dangerously stirred; but I trusted that men so able, men so upright, men who had so large a stake in the country, would carry us safe through the storm which they had raised. And is it not rather hard that my confidence in the right honourable Baronet and the noble lord is to be imputed to me as a crime by the very men who are trying to raise the right honourable Baronet and the noble lord to power? The Charter, we have been told in this debate, is the child of the Reform Bill. But whose child is the Reform Bill? If men are to be deemed unfit for office because they roused the national spirit to support that bill, because they went as

[1] Lord Stanley.

far as the law permitted in order to carry that bill, then I say that no men can be more unfit for office than the right honourable Baronet and the noble lord. It may be thought presumptuous in me to defend two persons who are so well able to defend themselves, and the more so, as they have a powerful ally in the right honourable Baronet, the Member for Tamworth, who, having twice offered them high places in the Government, must be supposed to be of opinion that they are not disqualified for being ministers by having been agitators. I will, however, venture to offer some arguments in vindication of the conduct of my noble and right honourable friends, as I once called them, and as, notwithstanding the asperity which has characterised the present debate, I should still have pleasure in calling them. I would say in their behalf that agitation ought not to be indiscriminately condemned; that great abuses ought to be removed; that in this country scarcely any great abuse was ever removed till the public feeling had been roused against it; and that the public feeling has seldom been roused against abuses without exertions to which the name of agitation may be given. I altogether deny the assertion which we have repeatedly heard in the course of this debate, that a government which does not discountenance agitation cannot be trusted to suppress rebellion. Agitation and rebellion, you say, are in kind the same thing: they differ only in degree. Sir, they are the same thing in the sense in which to breathe a vein and to cut a throat are the same thing. There are many points of resemblance between the act of the surgeon and the act of the assassin. In both there is the steel, the incision, the smart, the bloodshed. But the acts differ as widely as possible both in moral char-

acter and in physical effect. So with agitation and rebellion. I do not believe that there has been any moment since the Revolution of 1688 at which an insurrection in this country would have been justifiable. On the other hand, I hold that we have owed to agitation a long series of beneficent reforms, which could have been effected in no other way. Nor do I understand how any person can reprobate agitation merely as agitation, unless he is prepared to adopt the maxim of Bishop Horsley, that the people have nothing to do with the laws but to obey them. The truth is that agitation is inseparable from popular government. If you wish to get rid of agitation, you must establish an oligarchy like that of Venice, or a despotism like that of Russia. If a Russian thinks that he is able to suggest an improvement in the commercial code or the criminal code of his country, he tries to obtain an audience of the Emperor Nicholas or of Count Nesselrode. If he can satisfy them that his plans are good, then undoubtedly, without agitation, without controversy in newspapers, without harangues from hustings, without clamourous meetings in great halls and in marketplaces, without petitions signed by tens of thousands, you may have a reform effected with one stroke of the pen. Not so here. Here the people, as electors, have power to decide questions of the highest importance. And ought they not to hear and read before they decide? And how can they hear if nobody speaks, or read if nobody writes? You must admit, then, that it is our right, and that it may be our duty, to attempt by speaking and writing to induce the great body of our countrymen to pronounce what we think a right decision; and what else is agitation? In saying this I am not defending one party alone. Has

there been no Tory agitation? No agitation against Popery? No agitation against the new Poor Law? No agitation against the plan of education framed by the present Government? Or, to pass from questions about which we differ to questions about which we all agree: Would the slave trade ever have been abolished without agitation? Would slavery ever have been abolished without agitation? Would your prison discipline ever have been improved without agitation? Would your penal code, once the scandal of the Statute Book, have been mitigated without agitation? I am far from denying that agitation may be abused, may be employed for bad ends, may be carried to unjustifiable lengths. So may that freedom of speech which is one of the most precious privileges of this House. Indeed, the analogy is very close. What is agitation but the mode in which the public, the body which we represent, the great outer assembly, if I may so speak, holds its debates? It is as necessary to the good government of the country that our constituents should debate as that we should debate. They sometimes go wrong, as we sometimes go wrong. There is often much exaggeration, much unfairness, much acrimony in their debates. Is there none in ours? Some worthless demagogues may have exhorted the people to resist the laws. But what member of Lord Grey's Government, what member of the present Government, ever gave any countenance to any illegal proceedings? It is perfectly true that some words which have been uttered here and in other places, and which, when taken together with the context and candidly construed, will appear to mean nothing but what was reasonable and constitutional and moderate, have been distorted and mutilated into something that has a sedi-

tious aspect. But who is secure against such misrepresentation? Not, I am sure, the right honourable Baronet, the Member for Pembroke. He ought to remember that his own speeches have been used by bad men for bad ends. He ought to remember that some expressions which he used in 1830, on the subject of the emoluments divided among Privy Councillors, have been quoted by the Chartists in vindication of their excesses. Do I blame him for this? Not at all. He said nothing that was not justifiable. But it is impossible for a man so to guard his lips that his language shall not sometimes be misunderstood by dull men, and sometimes misrepresented by dishonest men. I do not, I say, blame him for having used those expressions: but I do say that, knowing how his own expressions had been perverted, he should have hesitated before he threw upon men, not less attached than himself to the cause of law, of order and property, imputations certainly not better founded than those to which he is himself liable.

And now, Sir, to pass by many topics to which, but for the lateness of the hour, I would willingly advert, let me remind the House that the question before us is not a positive question, but a question of comparison. No man, though he may disapprove of some part of the conduct of the present Ministers, is justified in voting for the motion which we are considering, unless he believes that a change would, on the whole, be beneficial. No government is perfect: but some government there must be; and, if the present government were worse than its enemies think it, it ought to exist until it can be succeeded by a better. Now I take it to be perfectly clear that, in the event of the removal of Her Majesty's present advisers, an adminis

tration must be formed of which the right honourable Baronet, the Member for Tamworth, will be the head. Towards that right honourable Baronet, and towards many of the noblemen and gentlemen who would probably in that event be associated with him, I entertain none but kind and respectful feelings. I am far, I hope, from that narrowness of mind which makes a man unable to see merit in any party but his own. If I may venture to parody the old Venetian proverb, I would be "First an Englishman; and then a Whig." I feel proud of my country when I think how much ability, uprightness, and patriotism may be found on both sides of the House. Among our opponents stands forth, eminently distinguished by parts, eloquence, knowledge, and, I willingly admit, by public spirit, the right honourable Baronet, the Member for Tamworth. Having said this, I shall offer no apology for the remarks which, in the discharge of my public duty, I shall make, without, I hope, any personal discourtesy, on his past conduct and his present position.

It has been, Sir, I will not say his fault, but his misfortune, his fate, to be the leader of a party with which he has no sympathy. To go back to what is now matter of history, the right honourable Baronet bore a chief part in the restoration of the currency. By a very large proportion of his followers the restoration of the currency is considered as the chief cause of the distresses of the country. The right honourable Baronet cordially supported the commercial policy of Mr. Huskisson. But there was no name more odious than that of Mr. Huskisson to the rank and file of the Tory party. The right honourable Baronet assented to the Act which removed the disabilities of the Protestant Dissenters. But, a very short time ago, a noble

Duke, one of the highest in power and rank of the right honourable Baronet's adherents, positively refused to lend his aid to the executing of that Act. The right honourable Baronet brought in the bill which removed the disabilities of the Roman Catholics: but his supporters make it a chief article of charge against us that we have given practical effect to the law which is his best title to public esteem. The right honourable Baronet has declared himself decidedly favourable to the new Poor Law. Yet, if a voice is raised against the Whig Bastilles and the Kings of Somerset House, it is almost certain to be the voice of some zealous retainer of the right honourable Baronet. On the great question of privilege the right honourable Baronet has taken a part which entitles him to the gratitude of all who are solicitous for the honour and the usefulness of the popular branch of the legislature. But if any person calls us tyrants, and calls those whom we have imprisoned martyrs, that person is certain to be a partisan of the right honourable Baronet. Even when the right honourable Baronet does happen to agree with his followers as to a conclusion, he seldom arrives at that conclusion by the same process of reasoning which satisfies them. Many great questions which they consider as questions of right and wrong, as questions of moral and religious principle, as questions which must, for no earthly object, and on no emergency, be compromised, are treated by him merely as questions of expediency, of place, and of time. He has opposed many bills introduced by the present Government; but he has opposed them on such grounds that he is at perfect liberty to bring in the same bills himself next year, with perhaps some slight variation. I listened to him, as I always listen to him,

with pleasure, when he spoke last session on the subject of education. I could not but be amused by the skill with which he performed the hard task of translating the gibberish of bigots into language which might not misbecome the mouth of a man of sense. I felt certain that he despised the prejudices of which he condescended to make use, and that his opinion about the Normal Schools and the Douai Version entirely agreed with my own. I therefore do not think that, in times like these, the right honourable Baronet can conduct the administration with honour to himself or with satisfaction to those who are impatient to see him in office. I will not affect to feel apprehensions from which I am entirely free. I do not fear, and I will not pretend to fear, that the right honourable Baronet will be a tyrant and a persecutor. I do not believe that he will give up Ireland to the tender mercies of those zealots who form, I am afraid, the strongest, and I am sure the loudest, part of his retinue. I do not believe that he will strike the names of Roman Catholics from the Privy Council book, and from the Commissions of the Peace. I do not believe that he will lay on our table a bill for the repeal of that great Act which was introduced by himself in 1829. What I do anticipate is this, that he will attempt to keep his party together by means which will excite grave discontents, and yet that he will not succeed in keeping his party together; that he will lose the support of the Tories without obtaining the support of the nation; and that his government will fall from causes purely internal.

This, Sir, is not mere conjecture. The drama is not a new one. It was performed a few years ago on the same stage and by most of the same actors. In 1827

the right honourable Baronet was, as now, the head of a powerful Tory opposition. He had, as now, the support of a strong minority in this House. He had, as now, a majority in the other House. He was, as now, the favourite of the Church and of the Universities. All who dreaded political change, all who hated religious liberty, rallied round him then, as they rally round him now. Their cry was then, as now, that a government unfriendly to the civil and ecclesiastical constitution of the realm was kept in power by intrigue and court favour, and that the right honourable Baronet was the man to whom the nation must look to defend its laws against revolutionists, and its religion against idolaters. At length that cry became irresistible. Tory animosity had pursued the most accomplished of Tory statesmen and orators to a restingplace in Westminster Abbey. The arrangement which was made after his death lasted but a very few months: a Tory government was formed; and the right honourable Baronet became the leading minister of the Crown in the House of Commons. His adherents hailed his elevation with clamourous delight, and confidently expected many years of triumph and dominion. Is it necessary to say in what disappointment, in what sorrow, in what fury, those expectations ended? The right honourable Baronet had been raised to power by prejudices and passions in which he had no share. His followers were bigots. He was a statesman. He was coolly weighing conveniences against inconveniences, while they were ready to resort to a proscription and to hazard a civil war rather than depart from what they called their principles. For a time he tried to take a middle course. He imagined that it might be possible for him to stand well with his old friends, and yet to

perform some part of his duty to the state. But those were not times in which he could long continue to halt between two opinions. His elevation, as it had excited the hopes of the oppressors, had excited also the terror and the rage of the oppressed. Agitation which had, during more than a year, slumbered in Ireland, awoke with renewed vigour, and soon became more formidable than ever. The Roman Catholic Association began to exercise authority such as the Irish Parliament, in the days of its independence, had never possessed. An agitator became more powerful than the Lord Lieutenant. Violence engendered violence. Every explosion of feeling on one side of St. George's Channel was answered by a louder explosion on the other. The Clare election, the Penenden Heath meeting showed that the time for evasion and delay was past. A crisis had arrived which made it absolutely necessary for the Government to take one side or the other. A simple issue was proposed to the right honourable Baronet, concession or civil war; to disgust his party, or to ruin his country. He chose the good part. He performed a duty, deeply painful, in some sense humiliating, yet in truth highly honourable to him. He came down to this house and proposed the emancipation of the Roman Catholics. Among his adherents were some who, like himself, had opposed the Roman Catholic claims merely on the ground of political expediency; and these persons readily consented to support his new policy. But not so the great body of his followers. Their zeal for Protestant ascendency was a ruling passion, a passion, too, which they thought it a virtue to indulge. They had exerted themselves to raise to power the man whom they regarded as the ablest and most trusty champion of that ascendency; and he had not only aban-

doned the good cause, but had become its adversary. Who can forget in what a roar of obloquy their anger burst forth? Never before was such a flood of calumny and invective poured on a single head. All history, all fiction were ransacked by the old friends of the right honourable Baronet, for nicknames and allusions. One right honourable gentleman, whom I am sorry not to see in his place opposite, found English prose too weak to express his indignation, and pursued his perfidious chief with reproaches borrowed from the ravings of the deserted Dido. Another Tory explored Holy Writ for parallels, and could find no parallel but Judas Iscariot. The great university which had been proud to confer on the right honourable Baronet the highest marks of favour, was foremost in affixing the brand of infamy. From Cornwall, from Northumberland, clergymen came up by hundreds to Oxford, in order to vote against him whose presence, a few days before, would have set the bells of their parish churches jingling. Nay, such was the violence of this new enmity that the old enmity of the Tories to Whigs, Radicals, Dissenters, Papists, seemed to be forgotten. That Ministry which, when it came into power at the close of 1828, was one of the strongest that the country ever saw, was, at the close of 1829, one of the weakest. It lingered another year, staggering between two parties, leaning now on one, now on the other, reeling sometimes under a blow from the right, sometimes under a blow from the left, and certain to fall as soon as the Tory opposition and the Whig opposition could find a question on which to unite. Such a question was found: and that Ministry fell without a struggle.

Now what I wish to know is this. What reason have we to believe that any administration which the

right honourable Baronet can now form will have a different fate? Is he changed since 1829? Is his party changed? He is, I believe, still the same, still a statesman, moderate in opinions, cautious in temper, perfectly free from that fanaticism which inflames so many of his supporters. As to his party, I admit that it is not the same; for it is very much worse. It is decidedly fiercer and more unreasonable than it was eleven years ago. I judge by its public meetings; I judge by its journals; I judge by its pulpits, pulpits which every week resound with ribaldry and slander such as would disgrace the hustings. A change has come over the spirit of a part, I hope not the larger part, of the Tory body. It was once the glory of the Tories that, through all changes of fortune, they were animated by a steady and fervent loyalty which made even error respectable, and gave to what might otherwise have been called servility something of the manliness and nobleness of freedom. A great Tory poet, whose eminent services to the cause of monarchy had been ill requited by an ungrateful Court, boasted that

> "Loyalty is still the same,
> Whether it win or lose the game;
> True as the dial to the sun,
> Although it be not shined upon."

Toryism has now changed its character. We have lived to see a monster of a faction made up of the worst parts of the Cavalier and the worst parts of the Roundhead. We have lived to see a race of disloyal Tories. We have lived to see Tories giving themselves the airs of those insolent pikemen who puffed out their tobacco smoke in the face of Charles the First. We have lived to see Tories who, because they are not allowed to grind the people after the fashion of Strafford, turn

round and revile the Sovereign in the style of Hugh Peters. I say, therefore, that, while the leader is still what he was eleven years ago, when his moderation alienated his intemperate followers, his followers are more intemperate than ever. It is my firm belief that the majority of them desire the repeal of the Emancipation Act. You say, no. But I will give reasons, and unanswerable reasons, for what I say. How, if you really wish to maintain the Emancipation Act, do you explain that clamour which you have raised, and which has resounded through the whole kingdom, about the three Popish Privy Councillors? You resent, as a calumny, the imputation that you wish to repeal the Emancipation Act; and yet you cry out that Church and State are in danger of ruin whenever the Government carries that Act into effect. If the Emancipation Act is never to be executed, why should it not be repealed? I perfectly understand that an honest man may wish it to be repealed. But I am at a loss to understand how honest men can say, "We wish the Emancipation Act to be maintained: you who accuse us of wishing to repeal it slander us foully: we value it as much as you do. Let it remain among our statutes, provided always that it remains as a dead letter. If you dare to put it in force, indeed, we will agitate against you; for, though we talk against agitation, we too can practise agitation: we will denounce you in our associations; for, though we call associations unconstitutional, we too have our associations: our divines shall preach about Jezebel: our tavern spouters shall give significant hints about James the Second." Yes, Sir, such hints have been given, hints that a sovereign who has merely executed the law, ought to be treated like a sovereign who grossly violated the law. I per-

fectly understand, as I said, that an honest man may disapprove of the Emancipation Act, and may wish it repealed. But can any man, who is of opinion that Roman Catholics ought to be admitted to office, honestly maintain that they now enjoy more than their fair share of power and emolument? What is the proportion of Roman Catholics to the whole population of the United Kingdom? About one fourth. What proportion of the Privy Councillors are Roman Catholics? About one seventieth. And what, after all, is the power of a Privy Councillor, merely as such? Are not the right honourable gentlemen opposite Privy Councillors? If a change should take place, will not the present Ministers still be Privy Councillors? It is notorious that no Privy Councillor goes to Council unless he is specially summoned. He is called Right Honourable, and he walks out of a room before Esquires and Knights. And can we seriously believe that men who think it monstrous that this honorary distinction should be given to three Roman Catholics, do sincerely desire to maintain a law by which a Roman Catholic may be Commander in Chief with all the military patronage, First Lord of the Admiralty with all the naval patronage, or First Lord of the Treasury, with the chief influence in every department of the Government? I must therefore suppose that those who join in the cry against the three Privy Councillors are either imbecile or hostile to the Emancipation Act.

I repeat, therefore, that, while the right honourable Baronet is as free from bigotry as he was eleven years ago, his party is more bigoted than it was eleven years ago. The difficulty of governing Ireland in opposition to the feelings of the great body of the Irish people is, I apprehend, as great now as it was eleven years ago.

What then must be the fate of a government formed by the right honourable Baronet? Suppose that the event of this debate should make him Prime Minister? Should I be wrong if I were to prophesy that three years hence he will be more hated and vilified by the Tory party than the present advisers of the Crown have been? Should I be wrong if I were to say that all those literary organs which now deafen us with praise of him, will then deafen us with abuse of him? Should I be wrong if I were to say that he will be burned in effigy by those who now drink his health with three times three and one cheer more? Should I be wrong if I were to say that those very gentlemen who have crowded hither to-night in order to vote him into power, will crowd hither to vote Lord Melbourne back? Once already have I seen those very persons go out into the lobby for the purpose of driving the right honourable Baronet from the high situation to which they had themselves exalted him. I went out with them myself; yes, with the whole body of Tory country gentlemen, with the whole body of high Churchmen. All the four University Members were with us. The effect of that division was to bring Lord Grey, Lord Althorpe, Lord Brougham, Lord Durham into power. You may say that the Tories on that occasion judged ill, that they were blinded by vindictive passion, that if they had foreseen all that followed they might have acted differently. Perhaps so. But what has been once may be again. I cannot think it possible that those who are now supporting the right honourable Baronet will continue from personal attachment to support him if they see that his policy is in essentials the same as Lord Melbourne's. I believe that they have quite as much personal attachment to Lord Melbourne

as to the right honourable Baronet. They follow the right honourable Baronet because his abilities, his eloquence, his experience are necessary to them; but they are but half reconciled to him. They never can forget that, in the most important crisis of his public life, he deliberately chose rather to be the victim of their injustice than its instrument. It is idle to suppose that they will be satisfied by seeing a new set of men in power. Their maxim is most truly "Measures, not men." They care not before whom the sword of state is borne at Dublin, or who wears the badge of St. Patrick. What they abhor is not Lord Normanby personally or Lord Ebrington personally, but the great principles in conformity with which Ireland has been governed by Lord Normanby and by Lord Ebrington, the principles of justice, humanity, and religious freedom. What they wish to have in Ireland is not my Lord Haddington, or any other viceroy whom the right honourable Baronet may select, but the tyranny of race over race, and of creed over creed. Give them what they want; and you convulse the empire. Refuse them; and you dissolve the Tory party. I believe that the right honourable Baronet himself is by no means without apprehensions that, if he were now called to the head of affairs, he would, very speedily, have the dilemma of 1829 again before him. He certainly was not without such apprehensions when, a few months ago, he was commanded by Her Majesty to submit to her the plan of an administration. The aspect of public affairs was not at that time cheering. The Chartists were stirring in England. There were troubles in Canada. There were great discontents in the West Indies. An expedition, of which the event was still doubtful, had been sent into the heart of Asia.

Yet, among many causes of anxiety, the discerning eye of the right honourable Baronet easily discerned the quarter where the great and immediate danger lay. He told the House that his difficulty would be Ireland. Now, Sir, that which would be the difficulty of his administration is the strength of the present administration. Her Majesty's Ministers enjoy the confidence of Ireland; and I believe that what ought to be done for that country will excite less discontent here if done by them than if done by him. He, I am afraid, great as his abilities are, and good as I willingly admit his intentions to be, would find it easy to lose the confidence of his partisans, but hard indeed to win the confidence of the Irish people.

It is indeed principally on account of Ireland that I feel solicitous about the issue of the present debate. I well know how little chance he who speaks on that theme has of obtaining a fair hearing. Would to God that I were addressing an audience which would judge this great controversy as it is judged by foreign nations, and as it will be judged by future ages. The passions which inflame us, the sophisms which delude us, will not last forever. The paroxysms of faction have their appointed season. Even the madness of fanaticism is but for a day. The time is coming when our conflicts will be to others what the conflicts of our forefathers are to us; when the preachers who now disturb the State, and the politicians who now make a stalking horse of the Church will be no more than Sacheverel and Harley. Then will be told, in language very different from that which now calls forth applause from the mob of Exeter Hall, the true story of these troubled years.

There was, it will then be said, a part of the king-

dom of Queen Victoria which presented a lamentable contrast to the rest; not from want of natural fruitfulness, for there was no richer soil in Europe; not from want of facilities for trade, for the coasts of this unhappy region were indented by bays and estuaries capable of holding all the navies of the world: not because the people were too dull to improve these advantages or too pusillanimous to defend them; for in natural quickness of wit and gallantry of spirit they ranked high among the nations. But all the bounty of nature had been made unavailing by the crimes and errors of man. In the twelfth century that fair island was a conquered province. The nineteenth century found it a conquered province still. During that long interval many great changes had taken place which had conduced to the general welfare of the empire: but those changes had only aggravated the misery of Ireland. The Reformation came, bringing to England and Scotland divine truth and intellectual liberty. To Ireland it brought only fresh calamities. Two new war cries, Protestant and Catholic, animated the old feud between the Englishry and the Irishry. The Revolution came, bringing to England and Scotland civil and spiritual freedom, to Ireland subjugation, degradation, persecution. The Union came: but, though it joined legislatures, it left hearts as widely disjoined as ever. Catholic Emancipation came: but it came too late; it came as a concession made to fear, and, having excited unreasonable hopes, was naturally followed by unreasonable disappointment. Then came violent irritation, and numerous errors on both sides. Agitation produced coercion, and coercion produced fresh agitation. Difficulties and dangers went on increasing, till a government arose

which, all other means having failed, determined to employ the only means that had not yet been fairly tried, justice and mercy. The State, long the stepmother of the many, and the mother only of the few, became for the first time the common parent of all the great family. The body of the people began to look on their rulers as friends. Battalion after battalion, squadron after squadron, was withdrawn from districts which, as it had till then been thought, could be governed by the sword alone. Yet the security of property and the authority of law became every day more complete. Symptoms of amendment, symptoms such as cannot be either concealed or counterfeited, began to appear; and those who once despaired of the destinies of Ireland began to entertain a confident hope that she would at length take among European nations that high place to which her natural resources and the intelligence of her children entitle her to aspire.

In words such as these, I am confident, will the next generation speak of the events of our time. Relying on the sure justice of history and of posterity, I care not, as far as I am personally concerned, whether we stand or fall. That issue it is for the House to decide. Whether the result will be victory or defeat, I know not. But I know that there are defeats not less glorious than any victory; and yet I have shared in some glorious victories. Those were proud and happy days; — some who sit on the benches opposite can well remember, and must, I think, regret them; — those were proud and happy days when, amidst the applauses and blessings of millions, my noble friend led us on in the great struggle for the Reform Bill; when hundreds waited round our doors till sunrise to hear

how we had sped; when the great cities of the north poured forth their population on the highways to meet the mails which brought from the capital the tidings whether the battle of the people had been lost or won. Such days my noble friend cannot hope to see again. Two such triumphs would be too much for one life. But perhaps there still awaits him a less pleasing, a less exhilarating, but a not less honourable task, the task of contending against superior numbers, and through years of discomfiture, for those civil and religious liberties which are inseparably associated with the name of his illustrious house. At his side will not be wanting men who against all odds, and through all turns of fortune, in evil days and amidst evil tongues, will defend to the last, with unabated spirit, the noble principles of Milton and of Locke. We may be driven from office. We may be doomed to a life of opposition. We may be made marks for the rancour of sects which, hating each other with a deadly hatred, yet hate toleration still more. We may be exposed to the rage of Laud on one side, and of Praise-God-Barebones on the other. But justice will be done at last: and a portion of the praise which we bestow on the old champions and martyrs of freedom will not be refused by future generations to the men who have in our days endeavoured to bind together in real union races too long estranged, and to efface, by the mild influence of a parental government, the fearful traces which have been left by the misrule of ages.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 7TH OF APRIL, 1840.

On the seventh of April, 1840, Sir James Graham moved the following resolution: —

"That it appears to this House, on consideration of the papers relating to China presented to this House by command of Her Majesty, that the interruption in our commercial and friendly intercourse with that country, and the hostilities which have since taken place, are mainly to be attributed to the want of foresight and precaution on the part of Her Majesty's present advisers, in respect to our relations with China, and especially to their neglect to furnish the Superintendent at Canton with powers and instructions calculated to provide against the growing evils connected with the contraband trade in opium, and adapted to the novel and difficult situation in which the Superintendent was placed."

As soon as the question had been put from the Chair, the following Speech was made.

The motion was rejected, after a debate of three nights, by 271 votes to 261.

Mr. Speaker, —

If the right honourable Baronet, in rising to make an attack on the Government, was forced to own that he was unnerved and overpowered by his sense of the importance of the question with which he had to deal, one who rises to repel that attack may, without any shame, confess that he feels similar emotions. And yet I must say that the anxiety, the natural and becoming anxiety with which Her Majesty's Ministers

have awaited the judgment of the House on these papers, was not a little allayed by the terms of the right honourable Baronet's motion, and has been still more allayed by his speech. It was impossible for us to doubt either his inclination or his ability to detect and to expose any fault which we might have committed; and we may well congratulate ourselves on finding that, after the closest examination into a long series of transactions, so extensive, so complicated, and, in some respects, so disastrous, so keen an assailant could produce only so futile an accusation.

In the first place, Sir, the resolution which the right honourable Baronet has moved relates entirely to events which took place before the rupture with the Chinese government. That rupture took place in March, 1839. The right honourable Baronet therefore does not propose to pass any censure on any step which has been taken by the Government within the last thirteen months; and it will, I think, be generally admitted, that when he abstains from censuring the proceedings of the Government, it is because the most unfriendly scrutiny can find nothing in those proceedings to censure. We by no means deny that he has a perfect right to propose a vote expressing disapprobation of what was done in 1837 or 1838. At the same time, we cannot but be gratified by learning that he approves of our present policy, and of the measures which we have taken, since the rupture, for the vindication of the national honour and for the protection of the national interests.

It is also to be observed that the right honourable Baronet has not ventured, either in his motion or in his speech, to charge Her Majesty's Ministers with any unwise or unjust act, with any act tending to

lower the character of England, or to give cause of offence to China. The only sins which he imputes to them are sins of omission. His complaint is merely that they did not foresee the course which events would take at Canton, and that consequently they did not send sufficient instructions to the British resident who was stationed there. Now it is evident that such an accusation is of all accusations that which requires the fullest and most distinct proof; for it is of all accusations that which it is easiest to make and hardest to refute. A man charged with a culpable act which he has not committed has comparatively little difficulty in proving his innocence. But when the charge is merely this, that he has not, in a long and intricate series of transactions, done all that it would have been wise to do, how is he to vindicate himself? And the case which we are considering has this peculiarity, that the envoy to whom the Ministers are said to have left too large a discretion, was fifteen thousand miles from them. The charge against them therefore is this, that they did not give such copious and particular directions as were sufficient, in every possible emergency, for the guidance of a functionary who was fifteen thousand miles off. Now, Sir, I am ready to admit that, if the papers on our table related to important negotiations with a neighbouring state, if they related, for example, to a negotiation carried on with France, my noble friend, the Secretary for Foreign Affairs,[1] might well have been blamed for sending instructions so meagre and so vague to our Ambassador at Paris. For my noble friend knows to-night what passed between our Ambassador at Paris and the French Ministers yesterday; and a messenger despatched to-night from Down-

[1] Lord Palmerston.

ing Street will be at the Embassy in the Faubourg Saint Honoré the day after to-morrow. But that constant and minute control, which the Foreign Secretary is bound to exercise over diplomatic agents who are near, becomes an useless and pernicious meddling when exercised over agents who are separated from him by a voyage of five months. There are on both sides of the House gentlemen conversant with the affairs of India. I appeal to those gentlemen. India is nearer to us than China. India is far better known to us than China. Yet is it not universally acknowledged that India can be governed only in India? The authorities at home point out to a governor the general line of policy which they wish him to follow; but they do not send him directions as to the details of his administration. How indeed is it possible that they should send him such directions? Consider in what a state the affairs of this country would be if they were to be conducted according to directions framed by the ablest statesman residing in Bengal. A despatch goes hence asking for instructions while London is illuminating for the peace of Amiens. The instructions arrive when the French army is encamped at Boulogne, and when the whole island is up in arms to repel invasion. A despatch is written asking for instructions when Buonaparte is at Elba. The instructions come when he is at the Tuileries. A despatch is written asking for instructions when he is at the Tuileries. The instructions come when he is at St. Helena. It would be just as impossible to govern India in London as to govern England at Calcutta. While letters are preparing here on the supposition that there is profound peace in the Carnatic, Hyder is at the gates of Fort St. George. While letters are prepar-

ing here on the supposition that trade is flourishing and that the revenue exceeds the expenditure, the crops have failed, great agency houses have broken, and the government is negotiating a loan on hard terms. It is notorious that the great men who founded and preserved our Indian empire, Clive and Warren Hastings, treated all particular orders which they received from home as mere waste paper. Had not those great men had the sense and spirit so to treat such orders, we should not now have had an Indian empire. But the case of China is far stronger. For, though a person who is now writing a despatch to Fort William in Leadenhall Street or Cannon Row cannot know what events have happened in India within the last two months, he may be very intimately acquainted with the general state of that country, with its wants, with its resources, with the habits and temper of the native population, and with the character of every prince and minister from Nepaul to Tanjore. But what does anybody here know of China? Even those Europeans who have been in that empire are almost as ignorant of it as the rest of us. Everything is covered by a veil, through which a glimpse of what is within may occasionally be caught, a glimpse just sufficient to set the imagination at work, and more likely to mislead than to inform. The right honourable Baronet has told us that an Englishman at Canton sees about as much of China as a foreigner who should land at Wapping and proceed no further would see of England. Certainly the sights and sounds of Wapping would give a foreigner but a very imperfect notion of our Government, of our manufactures, of our agriculture, of the state of learning and the arts among us. And yet the illustration is but a faint one. For

a foreigner may, without seeing even Wapping, without visiting England at all, study our literature, and may thence form a vivid and correct idea of our institutions and manners. But the literature of China affords us no such help. Obstacles unparalleled in any other country which has books must be surmounted by the student who is determined to master the Chinese tongue. To learn to read is the business of half a life. It is easier to become such a linguist as Sir William Jones was than to become a good Chinese scholar. You may count upon your fingers the Europeans whose industry and genius, even when stimulated by the most fervent religious zeal, has triumphed over the difficulties of a language without an alphabet. Here then is a country separated from us physically by half the globe, separated from us still more effectually by the barriers which the most jealous of all governments and the hardest of all languages oppose to the researches of strangers. Is it then reasonable to blame my noble friend because he has not sent to our envoys in such a country as this instructions as full and precise as it would have been his duty to send to a minister at Brussels or at the Hague. The right honourable Baronet who comes forward as the accuser on this occasion is really accusing himself. He was a member of the Government of Lord Grey. He was himself concerned in framing the first instructions which were given by my noble friend to our first Superintendent at Canton. For those instructions the right honourable Baronet frankly admits that he is himself responsible. Are those instructions then very copious and minute? Not at all. They merely lay down general principles. The resident, for example, is enjoined to respect national usages, and to avoid

whatever may shock the prejudices of the Chinese; but no orders are given him as to matters of detail. In 1834 my noble friend quitted the Foreign Office, and the Duke of Wellington went to it. Did the Duke of Wellington send out those copious and exact directions with which, according to the right honourable Baronet, the Government is bound to furnish its agent in China. No, Sir; the Duke of Wellington, grown old in the conduct of great affairs, knows better than anybody that a man of very ordinary ability at Canton is likely to be a better judge of what ought to be done on an emergency arising at Canton than the greatest politician at Westminster can possibly be. His Grace, therefore, like a wise man as he is, wrote only one letter to the Superintendent, and in that letter merely referred the Superintendent to the general directions given by Lord Palmerston. And how, Sir, does the right honourable Baronet prove that, by persisting in the course which he himself took when in office, and which the Duke of Wellington took when in office, Her Majesty's present advisers have brought on that rupture which we all deplore? He has read us, from the voluminous papers which are on the table, much which has but a very remote connection with the question. He has said much about things which happened before the present Ministry existed, and much about things which have happened at Canton since the rupture; but very little that is relevant to the issue raised by the resolution which he has himself proposed. That issue is simply this, whether the mismanagement of the present Ministry produced the rupture. I listened to his long and able speech with the greatest attention, and did my best to separate that part which had any relation to his motion from a great

mass of extraneous matter. If my analysis be correct, the charge which he brings against the Government consists of four articles.

The first article is, that the Government omitted to alter that part of the original instructions which directed the Superintendent to reside at Canton.

The second article is, that the Government omitted to alter that part of the original instructions which directed the Superintendent to communicate directly with the representatives of the Emperor.

The third article is, that the Government omitted to follow the advice of the Duke of Wellington, who had left at the Foreign Office a memorandum recommending that a British ship of war should be stationed in the China sea.

The fourth article is, that the Government omitted to authorise and empower the Superintendent to put down the contraband trade carried on by British subjects with China.

Such, Sir, are the counts of this indictment. Of these counts, the fourth is the only one which will require a lengthened defence. The first three may be disposed of in very few words.

As to the first, the answer is simple. It is true that the Government did not revoke that part of the instructions which directed the Superintendent to reside at Canton: and it is true that this part of the instructions did at one time cause a dispute between the Superintendent and the Chinese authorities. But it is equally true that this dispute was accommodated early in 1837; that the Chinese Government furnished the Superintendent with a passport authorising him to reside at Canton; that, during the two years which preceded the rupture, the Chinese Government made no

objection to his residing at Canton; and that there is not in all this huge blue book one word indicating that the rupture was caused, directly or indirectly, by his residing at Canton. On the first count, therefore, I am confident that the verdict must be, Not Guilty.

To the second count we have a similar answer. It is true that there was a dispute with the authorities at Canton about the mode of communication. But it is equally true that this dispute was settled by a compromise. The Chinese made a concession as to the channel of communication. The Superintendent made a concession as to the form of communication. The question had been thus set at rest before the rupture, and had absolutely nothing to do with the rupture.

As to the third charge, I must tell the right honourable Baronet that he has altogether misapprehended that memorandum which he so confidently cites. The Duke of Wellington did not advise the Government to station a ship of war constantly in the China seas. The Duke, writing in 1835, at a time when the regular course of the trade had been interrupted, recommended that a ship of war should be stationed near Canton "till the trade should take its regular peaceable course." Those are His Grace's own words. Do they not imply that, when the trade had again taken its regular peaceable course, it might be right to remove the ship of war? Well, Sir, the trade, after that memorandum was written, did resume its regular peaceable course: that the right honourable Baronet himself will admit; for it is part of his own case that Sir George Robinson had succeeded in restoring quiet and security. The third charge then is simply this, that the Ministers did not do in a time of perfect tranquillity what the Duke of Wellington thought that it would have been right to do in a time of trouble.

And now, Sir, I come to the fourth charge, the only real charge; for the other three are so futile that I hardly understand how the right honourable Baronet should have ventured to bring them forward. The fourth charge is, that the Ministers omitted to send to the Superintendent orders and powers to suppress the contraband trade, and that this omission was the cause of the rupture.

Now, Sir, let me ask whether it was not notorious, when the right honourable Baronet was in office, that British subjects carried on an extensive contraband trade with China? Did the right honourable Baronet and his colleagues instruct the Superintendent to put down that trade? Never. That trade went on while the Duke of Wellington was at the Foreign Office. Did the Duke of Wellington instruct the Superintendent to put down that trade? No, Sir, never. Are then the followers of the right honourable Baronet, are the followers of the Duke of Wellington, prepared to pass a vote of censure on us for following the example of the right honourable Baronet and of the Duke of Wellington? But I am understating my case. Since the present Ministers came into office, the reasons against sending out such instructions were much stronger than when the right honourable Baronet was in office, or when the Duke of Wellington was in office. Down to the month of May, 1838, my noble friend had good grounds for believing that the Chinese Government was about to legalise the trade in opium. It is by no means easy to follow the windings of Chinese politics. But, it is certain that about four years ago the whole question was taken into serious consideration at Pekin. The attention of the Emperor was called to the undoubted fact, that the law which forbade the

trade in opium was a dead letter. That law had been intended to guard against two evils, which the Chinese legislators seem to have regarded with equal horror, the importation of a noxious drug, and the exportation of the precious metals. It was found, however, that as many pounds of opium came in, and that as many pounds of silver went out, as if there had been no such law. The only effect of the prohibition was that the people learned to think lightly of imperial edicts, and that no part of the great sums expended in the purchase of the forbidden luxury came into the imperial treasury. These considerations were set forth in a most luminous and judicious state paper, drawn up by Tang Tzee, President of the Sacrificial Offices. I am sorry to hear that this enlightened minister has been turned out of office on account of his liberality: for to be turned out of office is, I apprehend, a much more serious misfortune in China than in England. Tang Tzee argued that it was unwise to attempt to exclude opium, for that, while millions desired to have it, no law would keep it out, and that the manner in which it had long been brought in had produced an injurious effect both on the revenues of the state and on the morals of the people. Opposed to Tang Tzee was Tchu Sing, a statesman of a very different class, of a class which, I am sorry to say, is not confined to China. Tchu Sing appears to be one of those staunch Conservatives who, when they find that a law is inefficient because it is too severe, imagine that they can make it efficient by making it more severe still. His historical knowledge is much on a par with his legislative wisdom. He seems to have paid particular attention to the rise and progress of our Indian Empire, and he informs his imperial master that opium is the weapon by which

England effects her conquests. She had, it seems, persuaded the people of Hindostan to smoke and swallow this besotting drug, till they became so feeble in body and mind, that they were subjugated without difficulty. Some time appears to have elapsed before the Emperor made up his mind on the point in dispute between Tang Tzee and Tchu Sing. Our Superintendent, Captain Elliot, was of opinion that the decision would be in favour of the rational view taken by Tang Tzee; and such, as I can myself attest, was, during part of the year 1837, the opinion of the whole mercantile community of Calcutta. Indeed, it was expected that every ship which arrived in the Hoogley from Canton would bring the news that the opium trade had been declared legal. Nor was it known in London till May, 1838, that the arguments of Tchu Sing had prevailed. Surely, Sir, it would have been most absurd to order Captain Elliot to suppress this trade at a time when everybody expected that it would soon cease to be contraband. The right honourable Baronet must, I think, himself admit that, till the month of May, 1838, the Government here omitted nothing that ought to have been done.

The question before us is therefore reduced to very narrow limits. It is merely this: Ought my noble friend in May, 1838, to have sent out a despatch commanding and empowering Captain Elliot to put down the opium trade? I do not think that it would have been right or wise to send out such a despatch. Consider, Sir, with what powers it would have been necessary to arm the Superintendent. He must have been authorised to arrest, to confine, to send across the sea any British subject whom he might believe to have been concerned in introducing opium into China. I

do not deny that, under the Act of Parliament, the Government might have invested him with this dictatorship. But I do say that the Government ought not lightly to invest any man with such a dictatorship, and that if, in consequence of directions sent out by the Government, numerous subjects of Her Majesty had been taken into custody and shipped off to Bengal or to England without being permitted to wind up their affairs, this House would in all probability have called the Ministers to a strict account. Nor do I believe that by sending such directions the Government would have averted the rupture which has taken place. I will go further. I believe that, if such directions had been sent, we should now have been, as we are, at war with China; and that we should have been at war in circumstances singularly dishonourable and disastrous.

For, Sir, suppose that the Superintendent had been authorised and commanded by the Government to put forth an order prohibiting British subjects from trading in opium; suppose that he had put forth such an order; how was he to enforce it? The right honourable Baronet has had too much experience of public affairs to imagine that a lucrative trade will be suppressed by a sheet of paper and a seal. In England we have a preventive service which costs us half a million a year. We employ more than fifty cruisers to guard our coasts. We have six thousand effective men whose business is to intercept smugglers. And yet everybody knows that every article which is much desired, which is easily concealed, and which is heavily taxed, is smuggled into our island to a great extent. The quantity of brandy which comes in without paying duty is known to be not less than six hundred

thousand gallons a year. Some people think that the quantity of tobacco which is imported clandestinely is as great as the quantity which goes through the custom houses. Be this as it may, there is no doubt that the illicit importation is enormous. It has been proved before a Committee of this House that not less than four millions of pounds of tobacco have lately been smuggled into Ireland. And all this, observe, has been done in spite of the most efficient preventive service that, I believe, ever existed in the world. Consider, too, that the price of an ounce of opium is far, very far higher, than the price of a pound of tobacco. Knowing this, knowing that the whole power of King, Lords, and Commons cannot here put a stop to a traffic less easy and less profitable than the traffic in opium, can you believe that an order prohibiting the traffic in opium would have been readily obeyed? Remember by what powerful motives both the buyer and the seller would have been impelled to deal with each other. The buyer would have been driven to the seller by something little short of torture, by a physical craving as fierce and impatient as any to which our race is subject. For, when stimulants of this sort have been long used, they are desired with a rage which resembles the rage of hunger. The seller would have been driven to the buyer by the hope of vast and rapid gain. And do you imagine that the intense appetite, on one side for what had become a necessary of life, and on the other for riches, would have been appeased by a few lines signed Charles Elliot? The very utmost effect which it is possible to believe that such an order would have produced would have been this, that the opium trade would have left Canton, where the dealers were under

the eye of the Superintendent, and where they would have run some risk of being punished by him, and would have spread itself along the coast. If we know anything about the Chinese Government, we know this, that its coast guard is neither trusty nor efficient; and we know that a coast guard as trusty and as efficient as our own would not be able to cut off communication between the merchant longing for silver and the smoker longing for his pipe. Whole fleets of vessels would have managed to land their cargoes along the shore. Conflicts would have arisen between our countrymen and the local magistrates, who would not, like the authorities at Canton, have had some knowledge of European habits and feelings. The mere *malum prohibitum* would, as usual, have produced the *mala in se*. The unlawful traffic would inevitably have led to a crowd of acts, not only unlawful, but immoral. The smuggler would, by the almost irresistible force of circumstances, have been turned into a pirate. We know that, even at Canton, where the smugglers stand in some awe of the authority of the Superintendent and of the opinion of an English society which contains many respectable persons, the illicit trade has caused many brawls and outrages. What, then, was to be expected when every captain of a ship laden with opium would have been the sole judge of his own conduct? It is easy to guess what would have happened. A boat is sent ashore to fill the watercasks and to buy fresh provisions. The provisions are refused. The sailors take them by force. Then a well is poisoned. Two or three of the ship's company die in agonies. The crew in a fury land, shoot and stab every man whom they meet, and sack and burn a village. Is this improbable? Have not

similar causes repeatedly produced similar effects? Do we not know that the jealous vigilance with which Spain excluded the ships of other nations from her Transatlantic possessions turned men who would otherwise have been honest merchant adventurers into buccaneers? The same causes which raised up one race of buccaneers in the Gulf of Mexico would soon have raised up another in the China sea. And can we doubt what would in that case have been the conduct of the Chinese authorities at Canton? We see that Commissioner Lin has arrested and confined men of spotless character, men whom he had not the slightest reason to suspect of being engaged in any illicit commerce. He did so on the ground that some of their countrymen had violated the revenue laws of China. How then would he have acted if he had learned that the redheaded devils had not merely been selling opium, but had been fighting, plundering, slaying, burning? Would he not have put forth a proclamation in his most vituperative style, setting forth that the Outside Barbarians had undertaken to stop the contraband trade, but that they had been found deceivers; that the Superintendent's edict was a mere pretence; that there was more smuggling than ever; that to the smuggling had been added robbery and murder; and that therefore he should detain all men of the guilty race as hostages till reparation should be made. I say, therefore, that, if the Ministers had done that which the right honourable Baronet blames them for not doing, we should only have reached by a worse way the point at which we now are.

I have now, Sir, gone through the four heads of the charge brought against the Government; and I say with confidence that the interruption of our

friendly relations with China cannot justly be imputed to any one of the omissions mentioned by the right honourable Baronet. In truth, if I could feel assured that no gentleman would vote for the motion without attentively reading it, and considering whether the proposition which it affirms has been made out, I should have no uneasiness as to the result of this debate. But I know that no member weighs the words of a resolution for which he is asked to vote, as he would weigh the words of an affidavit which he was asked to swear. And I am aware that some persons, for whose humanity and honesty I entertain the greatest respect, are inclined to divide with the right honourable Baronet, not because they think that he has proved his case, but because they have taken up a notion that we are making war for the purpose of forcing the Government of China to admit opium into that country, and that, therefore, we richly deserve to be censured. Certainly, Sir, if we had been guilty of such absurdity and such atrocity as those gentlemen impute to us, we should deserve not only censure but condign punishment. But the imputation is altogether unfounded. Our course was clear. We may doubt indeed whether the Emperor of China judged well in listening to Tchu Sing and disgracing Tang Tzee. We may doubt whether it be a wise policy to exclude altogether from any country a drug which is often fatally abused, but which to those who use it rightly is one of the most precious boons vouchsafed by Providence to man, powerful to assuage pain, to soothe irritation, and to restore health. We may doubt whether it be a wise policy to make laws for the purpose of preventing the precious metals from being exported in the natural course of trade.

We have learned from all history, and from our own experience, that revenue cutters, custom house officers, informers, will never keep out of any country foreign luxuries of small bulk for which consumers are willing to pay high prices, and will never prevent gold and silver from going abroad in exchange for such luxuries. We cannot believe that what England, with her skilfully organised fiscal system and her gigantic marine, has never been able to effect, will be accomplished by the junks which are at the command of the mandarins of China. But, whatever our opinion on these points may be, we are perfectly aware that they are points which it belongs not to us but to the Emperor of China to decide. He had a perfect right to keep out opium and to keep in silver, if he could do so by means consistent with morality and public law. If his officers seized a chest of the forbidden drug, we were not entitled to complain; nor did we complain. But when, finding that they could not suppress the contraband trade by just means, they resorted to means flagrantly unjust; when they imprisoned our innocent countrymen, when they insulted our Sovereign in the person of her representative, then it became our duty to demand satisfaction. Whether the opium trade be a pernicious trade is not the question. Take a parallel case: take the most execrable crime that ever was called a trade, the African slave trade. You will hardly say that a contraband trade in opium is more immoral than a contraband trade in negroes. We prohibited slave trading: we made it felony; we made it piracy; we invited foreign powers to join with us in putting it down; to some foreign powers we paid large sums in order to obtain their coöperation; we employed our naval force to intercept the kidnappers;

and yet it is notorious that, in spite of all our exertions and sacrifices, great numbers of slaves were, even as late as ten or twelve years ago, introduced from Madagascar into our own island of Mauritius. Assuredly it was our right, it was our duty, to guard the coasts of that island strictly, to stop slave ships, to bring the buyers and sellers to punishment. But suppose, Sir, that a ship under French colours was seen skulking near the island, that the Governor was fully satisfied from her build, her rigging, and her movements, that she was a slaver, and was only waiting for the night to put on shore the wretches who were in her hold. Suppose that, not having a sufficient naval force to seize this vessel, he were to arrest thirty or forty French merchants, most of whom had never been suspected of slave trading, and were to lock them up. Suppose that he were to lay violent hands on the French consul. Suppose that the Governor were to threaten to starve his prisoners to death unless they produced the proprietor of the slaver. Would not the French Government in such a case have a right to demand reparation? And, if we refused reparation, would not the French Government have a right to exact reparation by arms? And would it be enough for us to say, "This is a wicked trade, an inhuman trade. Think of the misery of the poor creatures who are torn from their homes. Think of the horrors of the middle passage. Will you make war in order to force us to admit slaves into our colonies?" Surely the answer of the French would be, "We are not making war in order to force you to admit slaves into the Mauritius. By all means keep them out. By all means punish every man, French or English, whom you can convict of bringing them in. What we com-

plain of is that you have confounded the innocent with the guilty, and that you have acted towards the representative of our government in a manner inconsistent with the law of nations. Do not, in your zeal for one great principle, trample on all the other great principles of morality." Just such are the grounds on which Her Majesty has demanded reparation from China. And was it not time? See, Sir, see how rapidly injury has followed injury. The Imperial Commissioner, emboldened by the facility with which he had perpetrated the first outrage, and utterly ignorant of the relative position of his country and ours in the scale of power and civilisation, has risen in his requisitions. He began by confiscating property. His next demand was for innocent blood. A Chinese had been slain. Careful inquiry was made; but it was impossible to ascertain who was the slayer, or even to what nation the slayer belonged. No matter. It was notified to the Superintendent that some subject of the Queen, innocent or guilty, must be delivered up to suffer death. The Superintendent refused to comply. Then our countrymen at Canton were seized. Those who were at Macao were driven thence; not men alone, but women with child, babies at the breast. The fugitives begged in vain for a morsel of bread. Our Lascars, people of a different colour from ours, but still our fellow subjects, were flung into the sea. An English gentleman was barbarously mutilated. And was this to be borne? I am far from thinking that we ought, in our dealings with such a people as the Chinese, to be litigious on points of etiquette. The place of our country among the nations of the world is not so mean or so ill-ascertained that we need resent mere impertinence,

which is the effect of a very pitiable ignorance. Conscious of superior power, we can bear to hear our Sovereign described as a tributary of the Celestial Empire. Conscious of superior knowledge, we can bear to hear ourselves described as savages destitute of every useful art. When our ambassadors were required to perform a prostration, which in Europe would have been considered as degrading, we were rather amused than irritated. It would have been unworthy of us to have recourse to arms on account of an uncivil phrase, or of a dispute about a ceremony. But this is not a question of phrases and ceremonies. The liberties and lives of Englishmen are at stake: and it is fit that all nations, civilised and uncivilised, should know that, wherever the Englishman may wander, he is followed by the eye and guarded by the power of England.

I was much touched, and so, I dare say, were many other gentlemen, by a passage in one of Captain Elliot's despatches. I mean that passage in which he describes his arrival at the factory in the moment of extreme danger. As soon as he landed he was surrounded by his countrymen, all in an agony of distress and despair. The first thing which he did was to order the British flag to be brought from his boat and planted in the balcony. The sight immediately revived the hearts of those who had a minute before given themselves up for lost. It was natural that they should look up with hope and confidence to that victorious flag. For it reminded them that they belonged to a country unaccustomed to defeat, to submission, or to shame; to a country which had exacted such reparation for the wrongs of her children as had made the ears of all who heard of it to tingle; to a country

which had made the Dey of Algiers humble himself to the dust before her insulted Consul; to a country which had avenged the victims of the Black Hole on the Field of Plassey; to a country which had not degenerated since the great Protector vowed that he would make the name of Englishman as much respected as ever had been the name of Roman citizen. They knew that, surrounded as they were by enemies, and separated by great oceans and continents from all help, not a hair of their heads would be harmed with impunity. On this part of the subject I believe that both the great contending parties in this House are agreed. I did not detect in the speech of the right honourable Baronet — and I listened to that speech with the closest attention — one word indicating that he is less disposed than we to insist on full satisfaction for the great wrong which has been done. I cannot believe that the House will pass a vote of censure so grossly unjust as that which he has moved. But I rejoice to think that, whether we are censured or not, the national honour will still be safe. There may be a change of men; but, as respects China, there will be no change of measures. I have done; and have only to express my fervent hope that this most righteous quarrel may be prosecuted to a speedy and triumphant close; that the brave men to whom is entrusted the task of exacting reparation may perform their duty in such a manner as to spread, throughout regions in which the English name is hardly known, the fame not only of English skill and valour, but of English mercy and moderation; and that the overruling care of that gracious Providence which has so often brought good out of evil may make the war to which we have been forced the means of establishing a durable peace, beneficial alike to the victors and the vanquished.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 5TH OF FEBRUARY, 1841.

On the twenty-ninth of January, 1841, Mr. Serjeant Talfourd obtained leave to bring in a bill to amend the law of copyright. The object of this bill was to extend the term of copyright in a book to sixty years, reckoned from the death of the writer.

On the fifth of February Mr. Serjeant Talfourd moved that the bill should be read a second time. In reply to him the following Speech was made. The bill was rejected by 45 votes to 38.

Though, Sir, it is in some sense agreeable to approach a subject with which political animosities have nothing to do, I offer myself to your notice with some reluctance. It is painful to me to take a course which may possibly be misunderstood or misrepresented as unfriendly to the interests of literature and literary men. It is painful to me, I will add, to oppose my honourable and learned friend on a question which he has taken up from the purest motives, and which he regards with a parental interest. These feelings have hitherto kept me silent when the law of copyright has been under discussion. But as I am, on full consideration, satisfied that the measure before us will, if adopted, inflict grievous injury on the public, without conferring any compensating advantage on men of letters, I think it my duty to avow that opinion and to defend it.

The first thing to be done, Sir, is to settle on what

principles the question is to be argued. Are we free to legislate for the public good, or are we not? Is this a question of expediency, or is it a question of right? Many of those who have written and petitioned against the existing state of things treat the question as one of right. The law of nature, according to them, gives to every man a sacred and indefeasible property in his own ideas, in the fruits of his own reason and imagination. The legislature has indeed the power to take away this property, just as it has the power to pass an act of attainder for cutting off an innocent man's head without a trial. But, as such an act of attainder would be legal murder, so would an act invading the right of an author to his copy be, according to these gentlemen, legal robbery.

Now, Sir, if this be so, let justice be done, cost what it may. I am not prepared, like my honourable and learned friend, to agree to a compromise between right and expediency, and to commit an injustice for the public convenience. But I must say, that his theory soars far beyond the reach of my faculties. It is not necessary to go, on the present occasion, into a metaphysicial inquiry about the origin of the right of property; and certainly nothing but the strongest necessity would lead me to discuss a subject so likely to be distasteful to the House. I agree, I own, with Paley in thinking that property is the creature of the law, and that the law which creates property can be defended only on this ground, that it is a law beneficial to mankind. But it is unnecessary to debate that point. For, even if I believed in a natural right of property, independent of utility and anterior to legislation, I should still deny that this right could survive the original proprietor. Few, I apprehend, even of

those who have studied in the most mystical and sentimental schools of moral philosophy, will be disposed to maintain that there is a natural law of succession older and of higher authority than any human code. If there be, it is quite certain that we have abuses to reform much more serious than any connected with the question of copyright. For this natural law can be only one; and the modes of succession in the Queen's dominions are twenty. To go no further than England, land generally descends to the eldest son. In Kent the sons share and share alike. In many districts the youngest takes the whole. Formerly a portion of a man's personal property was secured to his family; and it was only of the residue that he could dispose by will. Now he can dispose of the whole by will: but you limited his power, a few years ago, by enacting that the will should not be valid unless there were two witnesses. If a man dies intestate, his personal property generally goes according to the statute of distributions; but there are local customs which modify that statute. Now which of all these systems is conformed to the eternal standard of right? Is it primogeniture, or gavelkind, or borough English? Are wills *jure divino?* Are the two witnesses *jure divino?* Might not the *pars rationabilis* of our old law have a fair claim to be regarded as of celestial institution? Was the statute of distributions enacted in Heaven long before it was adopted by Parliament? Or is it to Custom of York, or to Custom of London, that this preëminence belongs? Surely, Sir, even those who hold that there is a natural right of property must admit that rules prescribing the manner in which the effects of deceased persons shall be distributed are purely arbitrary, and originate altogether in the will

of the legislature. If so, Sir, there is no controversy between my honourable and learned friend and myself as to the principles on which this question is to be argued. For the existing law gives an author copyright during his natural life; nor do I propose to invade that privilege, which I should, on the contrary, be prepared to defend strenuously against any assailant. The only point in issue between us is, how long after an author's death the State shall recognise a copyright in his representatives and assigns; and it can, I think, hardly be disputed by any rational man that this is a point which the legislature is free to determine in the way which may appear to be most conducive to the general good.

We may now, therefore, I think, descend from these high regions, where we are in danger of being lost in the clouds, to firm ground and clear light. Let us look at this question like legislators, and after fairly balancing conveniences and inconveniences, pronounce between the existing law of copyright and the law now proposed to us. The question of copyright, Sir, like most questions of civil prudence, is neither black nor white, but grey. The system of copyright has great advantages and great disadvantages; and it is our business to ascertain what these are, and then to make an arrangement under which the advantages may be as far as possible secured, and the disadvantages as far as possible excluded. The charge which I bring against my honourable and learned friend's bill is this, that it leaves the advantages nearly what they are at present, and increases the disadvantages at least four fold.

The advantages arising from a system of copyright are obvious. It is desirable that we should have a

supply of good books: we cannot have such a supply unless men of letters are liberally remunerated; and the least objectionable way of remunerating them is by means of copyright. You cannot depend for literary instruction and amusement on the leisure of men occupied in the pursuits of active life. Such men may occasionally produce compositions of great merit. But you must not look to such men for works which require deep meditation and long research. Works of that kind you can expect only from persons who make literature the business of their lives. Of these persons few will be found among the rich and the noble. The rich and the noble are not impelled to intellectual exertion by necessity. They may be impelled to intellectual exertion by the desire of distinguishing themselves, or by the desire of benefiting the community. But it is generally within these walls that they seek to signalise themselves and to serve their fellow creatures. Both their ambition and their public spirit, in a country like this, naturally take a political turn. It is then on men whose profession is literature, and whose private means are not ample, that you must rely for a supply of valuable books. Such men must be remunerated for their literary labour. And there are only two ways in which they can be remunerated. One of those ways is patronage; the other is copyright.

There have been times in which men of letters looked, not to the public, but to the government, or to a few great men, for the reward of their exertions. It was thus in the time of Mæcenas and Pollio at Rome, of the Medici at Florence, of Lewis the Fourteenth in France, of Lord Halifax and Lord Oxford in this country. Now, Sir, I well know that there are

cases in which it is fit and graceful, nay, in which it is a sacred duty to reward the merits or to relieve the distresses of men of genius by the exercise of this species of liberality. But these cases are exceptions. I can conceive no system more fatal to the integrity and independence of literary men than one under which they should be taught to look for their daily bread to the favour of ministers and nobles. I can conceive no system more certain to turn those minds which are formed by nature to be the blessings and ornaments of our species into public scandals and pests.

We have, then, only one resource left. We must betake ourselves to copyright, be the inconveniences of copyright what they may. Those inconveniences, in truth, are neither few nor small. Copyright is monopoly, and produces all the effects which the general voice of mankind attributes to monopoly. My honourable and learned friend talks very contemptuously of those who are led away by the theory that monopoly makes things dear. That monopoly makes things dear is certainly a theory, as all the great truths which have been established by the experience of all ages and nations, and which are taken for granted in all reasonings, may be said to be theories. It is a theory in the same sense in which it is a theory, that day and night follow each other, that lead is heavier than water, that bread nourishes, that arsenic poisons, that alcohol intoxicates. If, as my honourable and learned friend seems to think, the whole world is in the wrong on this point, if the real effect of monopoly is to make articles good and cheap, why does he stop short in his career of change? Why does he limit the operation of so salutary a principle

to sixty years? Why does he consent to anything short of a perpetuity? He told us that in consenting to anything short of a perpetuity he was making a compromise between extreme right and expediency. But if his opinion about monopoly be correct, extreme right and expediency would coincide. Or rather why should we not restore the monopoly of the East India trade to the East India Company? Why should we not revive all those old monopolies which, in Elizabeth's reign, galled our fathers so severely that, maddened by intolerable wrong, they opposed to their sovereign a resistance before which her haughty spirit quailed for the first and for the last time? Was it the cheapness and excellence of commodities that then so violently stirred the indignation of the English people? I believe, Sir, that I may safely take it for granted that the effect of monopoly generally is to make articles scarce, to make them dear, and to make them bad. And I may with equal safety challenge my honourable friend to find out any distinction between copyright and other privileges of the same kind; any reason why a monopoly of books should produce an effect directly the reverse of that which was produced by the East India Company's monopoly of tea, or by Lord Essex's monopoly of sweet wines. Thus, then, stands the case. It is good that authors should be remunerated; and the least exceptionable way of remunerating them is by a monopoly. Yet monopoly is an evil. For the sake of the good we must submit to the evil; but the evil ought not to last a day longer than is necessary for the purpose of securing the good.

Now, I will not affirm that the existing law is perfect, that it exactly hits the point at which the monopoly ought to cease; but this I confidently say, that

the existing law is very much nearer that point than the law proposed by my honourable and learned friend. For consider this; the evil effects of the monopoly are proportioned to the length of its duration. But the good effects for the sake of which we bear with the evil effects are by no means proportioned to the length of its duration. A monopoly of sixty years produces twice as much evil as a monopoly of thirty years, and thrice as much evil as a monopoly of twenty years. But it is by no means the fact that a posthumous monopoly of sixty years gives to an author thrice as much pleasure and thrice as strong a motive as a posthumous monopoly of twenty years. On the contrary, the difference is so small as to be hardly perceptible. We all know how faintly we are affected by the prospect of very distant advantages, even when they are advantages which we may reasonably hope that we shall ourselves enjoy. But an advantage that is to be enjoyed more than half a century after we are dead, by somebody, we know not by whom, perhaps by somebody unborn, by somebody utterly unconnected with us, is really no motive at all to action. It is very probable, that in the course of some generations, land in the unexplored and unmapped heart of the Australasian continent will be very valuable. But there is none of us who would lay down five pounds for a whole province in the heart of the Australasian continent. We know, that neither we, nor anybody for whom we care, will ever receive a farthing of rent from such a province. And a man is very little moved by the thought that in the year 2000 or 2100, somebody who claims through him will employ more shepherds than Prince Esterhazy, and will have the finest house and gallery of pictures at Victoria or Sydney.

Now, this is the sort of boon which my honourable and learned friend holds out to authors. Considered as a boon to them, it is a mere nullity; but, considered as an impost on the public, it is no nullity, but a very serious and pernicious reality. I will take an example. Dr. Johnson died fifty-six years ago. If the law were what my honourable and learned friend wishes to make it, somebody would now have the monopoly of Dr. Johnson's works. Who that somebody would be it is impossible to say; but we may venture to guess. I guess, then, that it would have been some bookseller, who was the assign of another bookseller, who was the grandson of a third bookseller, who had bought the copyright from Black Frank, the Doctor's servant and residuary legatee, in 1785 or 1786. Now, would the knowledge that this copyright would exist in 1841 have been a source of gratification to Johnson? Would it have stimulated his exertions? Would it have once drawn him out of his bed before noon? Would it have once cheered him under a fit of the spleen? Would it have induced him to give us one more allegory, one more life of a poet, one more imitation of Juvenal? I firmly believe not. I firmly believe that a hundred years ago, when he was writing our debates for the Gentleman's Magazine, he would very much rather have had twopence to buy a plate of shin of beef at a cook's shop underground. Considered as a reward to him, the difference between a twenty years' term and a sixty years' term of posthumous copyright would have been nothing or next to nothing. But is the difference nothing to us? I can buy Rasselas for sixpence; I might have had to give five shillings for it. I can buy the Dictionary, the entire genuine Dictionary, for two

guineas, perhaps for less; I might have had to give five or six guineas for it. Do I grudge this to a man like Dr. Johnson? Not at all. Show me that the prospect of this boon roused him to any vigorous effort, or sustained his spirits under depressing circumstances, and I am quite willing to pay the price of such an object, heavy as that price is. But what I do complain of is that my circumstances are to be worse, and Johnson's none the better; that I am to give five pounds for what to him was not worth a farthing.

The principle of copyright is this. It is a tax on readers for the purpose of giving a bounty to writers. The tax is an exceedingly bad one; it is a tax on one of the most innocent and most salutary of human pleasures; and never let us forget, that a tax on innocent pleasures is a premium on vicious pleasures. I admit, however, the necessity of giving a bounty to genius and learning. In order to give such a bounty, I willingly submit even to this severe and burdensome tax. Nay, I am ready to increase the tax, if it can be shown that by so doing I should proportionably increase the bounty. My complaint is, that my honourable and learned friend doubles, triples, quadruples, the tax, and makes scarcely any perceptible addition to the bounty. Why, Sir, what is the additional amount of taxation which would have been levied on the public for Dr. Johnson's works alone, if my honourable and learned friend's bill had been the law of the land? I have not data sufficient to form an opinion. But I am confident that the taxation on his Dictionary alone would have amounted to many thousands of pounds. In reckoning the whole additional sum which the holders of his copyrights would have taken out of the pockets of the public during the last half century at

twenty thousand pounds, I feel satisfied that I very greatly underrate it. Now, I again say that I think it but fair that we should pay twenty thousand pounds in consideration of twenty thousand pounds worth of pleasure and encouragement received by Dr. Johnson. But I think it very hard that we should pay twenty thousand pounds for what he would not have valued at five shillings.

My honourable and learned friend dwells on the claims of the posterity of great writers. Undoubtedly, Sir, it would be very pleasing to see a descendant of Shakespeare living in opulence on the fruits of his great ancestor's genius. A house maintained in splendour by such a patrimony would be a more interesting and striking object than Blenheim is to us, or than Strathfieldsaye will be to our children. But, unhappily, it is scarcely possible that, under any system, such a thing can come to pass. My honourable and learned friend does not propose that copyright shall descend to the eldest son, or shall be bound up by irrevocable entail. It is to be merely personal property. It is therefore highly improbable that it will descend during sixty years or half that term from parent to child. The chance is that more people than one will have an interest in it. They will in all probability sell it and divide the proceeds. The price which a bookseller will give for it will bear no proportion to the sum which he will afterwards draw from the public, if his speculation proves successful. He will give little, if anything, more for a term of sixty years than for a term of thirty or five and twenty. The present value of a distant advantage is always small; but when there is great room to doubt whether a distant advantage will be any advantage at all, the present value sinks to almost nothing. Such is

the inconstancy of the public taste that no sensible man will venture to pronounce, with confidence, what the sale of any book published in our days will be in the years between 1890 and 1900. The whole fashion of thinking and writing has often undergone a change in a much shorter period than that to which my honourable and learned friend would extend posthumous copyright. What would have been considered the best literary property in the earlier part of Charles the Second's reign? I imagine Cowley's poems. Overleap sixty years, and you are in the generation of which Pope asked, "Who now reads Cowley?" What works were ever expected with more impatience by the public than those of Lord Bolingbroke, which appeared, I think, in 1754. In 1814, no bookseller would have thanked you for the copyright of them all, if you had offered it to him for nothing. What would Paternoster Row give now for the copyright of Hayley's Triumphs of Temper, so much admired within the memory of many people still living? I say, therefore, that, from the very nature of literary property, it will almost always pass away from an author's family; and I say, that the price given for it to the family will bear a very small proportion to the tax which the purchaser, if his speculation turns out well, will in the course of a long series of years levy on the public.

If, Sir, I wished to find a strong and perfect illustration of the effects which I anticipate from long copyright, I should select, — my honourable and learned friend will be surprised, — I should select the case of Milton's granddaughter. As often as this bill has been under discussion, the fate of Milton's granddaughter has been brought forward by the advocates of monopoly. My honourable and learned friend has repeatedly

told the story with great eloquence and effect. He has dilated on the sufferings, on the abject poverty, of this illfated woman, the last of an illustrious race. He tells us that, in the extremity of her distress, Garrick gave her a benefit, that Johnson wrote a prologue, and that the public contributed some hundreds of pounds. Was it fit, he asks, that she should receive, in this eleemosynary form, a small portion of what was in truth a debt? Why, he asks, instead of obtaining a pittance from charity, did she not live in comfort and luxury on the proceeds of the sale of her ancestor's works? But, Sir, will my honourable and learned friend tell me that this event, which he has so often and so pathetically described, was caused by the shortness of the term of copyright? Why, at that time, the duration of copyright was longer than even he, at present, proposes to make it. The monopoly lasted not sixty years, but forever. At the time at which Milton's granddaughter asked charity, Milton's works were the exclusive property of a bookseller. Within a few months of the day on which the benefit was given at Garrick's theatre, the holder of the copyright of Paradise Lost, — I think it was Tonson, — applied to the Court of Chancery for an injunction against a bookseller, who had published a cheap edition of the great epic poem, and obtained the injunction. The representation of Comus was, if I remember rightly, in 1750; the injunction in 1752. Here, then, is a perfect illustration of the effect of long copyright. Milton's works are the property of a single publisher. Everybody who wants them must buy them at Tonson's shop, and at Tonson's price. Whoever attempts to undersell Tonson is harassed with legal proceedings. Thousands who would gladly possess a copy of Paradise

Lost, must forego that great enjoyment. And what, in the meantime, is the situation of the only person for whom we can suppose that the author, protected at such a cost to the public, was at all interested? She is reduced to utter destitution. Milton's works are under a monopoly. Milton's granddaughter is starving. The reader is pillaged; but the writer's family is not enriched. Society is taxed doubly. It has to give an exorbitant price for the poems; and it has at the same time to give alms to the only surviving descendant of the poet.

But this is not all. I think it right, Sir, to call the attention of the House to an evil, which is perhaps more to be apprehended when an author's copyright remains in the hands of his family, than when it is transferred to booksellers. I seriously fear that, if such a measure as this should be adopted, many valuable works will be either totally suppressed or grievously mutilated. I can prove that this danger is not chimerical; and I am quite certain that, if the danger be real, the safeguards which my honourable and learned friend has devised are altogether nugatory. That the danger is not chimerical may easily be shown. Most of us, I am sure, have known persons who, very erroneously as I think, but from the best motives, would not choose to reprint Fielding's novels, or Gibbon's History of the Decline and Fall of the Roman Empire. Some gentlemen may perhaps be of opinion, that it would be as well if Tom Jones and Gibbon's History were never reprinted. I will not, then, dwell on these or similar cases. I will take cases respecting which it is not likely that there will be any difference of opinion here; cases, too, in which the danger of which I now speak is not matter of supposition, but matter of

fact. Take Richardson's novels. Whatever I may, on the present occasion, think of my honourable and learned friend's judgment as a legislator, I must always respect his judgment as a critic. He will, I am sure, say that Richardson's novels are among the most valuable, among the most original works in our language. No writings have done more to raise the fame of English genius in foreign countries. No writings are more deeply pathetic. No writings, those of Shakespeare excepted, show more profound knowledge of the human heart. As to their moral tendency, I can cite the most respectable testimony. Dr. Johnson describes Richardson as one who had taught the passions to move at the command of virtue. My dear and honoured friend, Mr. Wilberforce, in his celebrated religious treatise, when speaking of the unchristian tendency of the fashionable novels of the eighteenth century, distinctly excepts Richardson from the censure. Another excellent person whom I can never mention without respect and kindness, Mrs. Hannah More, often declared in conversation, and has declared in one of her published poems, that she first learned from the writings of Richardson those principles of piety by which her life was guided. I may safely say that books celebrated as works of art through the whole civilised world, and praised for their moral tendency by Dr. Johnson, by Mr. Wilberforce, by Mrs. Hannah More, ought not to be suppressed. Sir, it is my firm belief, that if the law had been what my honourable and learned friend proposes to make it, they would have been suppressed. I remember Richardson's grandson well; he was a clergyman in the city of London; he was a most upright and excellent man: but he had conceived a strong prejudice against works

of fiction. He thought all novel-reading not only frivolous but sinful. He said, — this I state on the authority of one of his clerical brethren who is now a bishop, — he said that he had never thought it right to read one of his grandfather's books. Suppose, Sir, that the law had been what my honourable and learned friend would make it. Suppose that the copyright of Richardson's novels had descended, as might well have been the case, to this gentleman. I firmly believe, that he would have thought it sinful to give them a wide circulation. I firmly believe, that he would not for a hundred thousand pounds have deliberately done what he thought sinful. He would not have reprinted them. And what protection does my honourable and learned friend give to the public in such a case? Why, Sir, what he proposes is this: if a book is not reprinted during five years, any person who wishes to reprint it may give notice in the London Gazette: the advertisement must be repeated three times: a year must elapse; and then, if the proprietor of the copyright does not put forth a new edition, he loses his exclusive privilege. Now, what protection is this to the public? What is a new edition? Does the law define the number of copies that make an edition? Does it limit the price of a copy? Are twelve copies on large paper, charged at thirty guineas each, an edition? It has been usual, when monopolies have been granted, to prescribe numbers and to limit prices. But I do not find that my honourable and learned friend proposes to do so in the present case. And, without some such provision, the security which he offers is manifestly illusory. It is my conviction, that under such a system as that which he recommends to us, a copy of Clarissa would have been as rare as an Aldus or a Caxton.

I will give another instance. One of the most instructive, interesting, and delightful books in our language is Boswell's Life of Johnson. Now it is well known that Boswell's eldest son considered this book, considered the whole relation of Boswell to Johnson, as a blot in the escutcheon of the family. He thought, not perhaps altogether without reason, that his father had exhibited himself in a ludicrous and degrading light. And thus he became so sore and irritable that at last he could not bear to hear the life of Johnson mentioned. Suppose that the law had been what my honourable and learned friend wishes to make it. Suppose that the copyright of Boswell's Life of Johnson had belonged, as it well might, during sixty years, to Boswell's eldest son. What would have been the consequence? An unadulterated copy of the finest biographical work in the world would have been as scarce as the first edition of Camden's Britannia.

These are strong cases. I have shown you that, if the law had been what you are now going to make it, the finest prose work of fiction in the language, the finest biographical work in the language, would very probably have been suppressed. But I have stated my case weakly. The books which I have mentioned are singularly inoffensive books, books not touching on any of those questions which drive even wise men beyond the bounds of wisdom. There are books of a very different kind, books which are the rallying points of great political and religious parties. What is likely to happen if the copyright of one of these books should by descent or transfer come into the possession of some hostile zealot? I will take a single instance. It is only fifty years since John Wesley died; and all his works, if the law had been what my honourable and

learned friend wishes to make it, would now have been the property of some person or other. The sect founded by Wesley is the most numerous, the wealthiest, the most powerful, the most zealous of sects. In every parliamentary election it is a matter of the greatest importance to obtain the support of the Wesleyan Methodists. Their numerical strength is reckoned by hundreds of thousands. They hold the memory of their founder in the greatest reverence; and not without reason, for he was unquestionably a great and a good man. To his authority they constantly appeal. His works are in their eyes of the highest value. His doctrinal writings they regard as containing the best system of theology ever deduced from Scripture. His journals, interesting even to the common reader, are peculiarly interesting to the Methodist: for they contain the whole history of that singular polity which, weak and despised in its beginning, is now, after the lapse of a century, so strong, so flourishing, and so formidable. The hymns to which he gave his Imprimatur are a most important part of the public worship of his followers. Now, suppose that the copyright of these works should belong to some person who holds the memory of Wesley and the doctrines and discipline of the Methodists in abhorrence. There are many such persons. The Ecclesiastical Courts are at this very time sitting on the case of a clergyman of the Established Church who refused Christian burial to a child baptized by a Methodist preacher. I took up the other day a work which is considered as among the most respectable organs of a large and growing party in the Church of England, and there I saw John Wesley designated as a forsworn priest. Suppose that the works of Wesley were sup-

pressed. Why, Sir, such a grievance would be enough to shake the foundations of Government. Let gentlemen who are attached to the Church reflect for a moment what their feelings would be if the Book of Common Prayer were not to be reprinted for thirty or forty years, if the price of a Book of Common Prayer were run up to five or ten guineas. And then let them determine whether they will pass a law under which it is possible, under which it is probable, that so intolerable a wrong may be done to some sect consisting perhaps of half a million of persons.

I am so sensible, Sir, of the kindness with which the House has listened to me, that I will not detain you longer. I will only say this, that if the measure before us should pass, and should produce one tenth part of the evil which it is calculated to produce, and which I fully expect it to produce, there will soon be a remedy, though of a very objectionable kind. Just as the absurd acts which prohibited the sale of game were virtually repealed by the poacher, just as many absurd revenue acts have been virtually repealed by the smuggler, so will this law be virtually repealed by piratical booksellers. At present the holder of copyright has the public feeling on his side. Those who invade copyright are regarded as knaves who take the bread out of the mouths of deserving men. Everybody is well pleased to see them restrained by the law, and compelled to refund their ill-gotten gains. No tradesmen of good repute will have anything to do with such disgraceful transactions. Pass this law: and that feeling is at an end. Men very different from the present race of piratical booksellers will soon infringe this intolerable monopoly. Great masses of capital will be constantly employed in the violation of the law. Every

art will be employed to evade legal pursuit; and the whole nation will be in the plot. On which side indeed should the public sympathy be when the question is whether some book as popular as Robinson Crusoe, or the Pilgrim's Progress, shall be in every cottage, or whether it shall be confined to the libraries of the rich for the advantage of the great-grandson of a bookseller who, a hundred years before, drove a hard bargain for the copyright with the author when in great distress? Remember too that, when once it ceases to be considered as wrong and discreditable to invade literary property, no person can say where the invasion will stop. The public seldom makes nice distinctions. The wholesome copyright which now exists will share in the disgrace and danger of the new copyright which you are about to create. And you will find that, in attempting to impose unreasonable restraints on the reprinting of the works of the dead, you have, to a great extent, annulled those restraints which now prevent men from pillaging and defrauding the living. If I saw, Sir, any probability that this bill could be so amended in the Committee that my objections might be removed, I would not divide the House in this stage. But I am so fully convinced that no alteration which would not seem insupportable to my honourable and learned friend, could render his measure supportable to me, that I must move, though with regret, that this bill be read a second time this day six months.

A SPEECH

DELIVERED IN A COMMITTEE OF THE HOUSE OF COMMONS ON THE 6TH OF APRIL, 1842.

On the third of March, 1842, Lord Mahon obtained permission to bring in a bill to amend the Law of Copyright. This bill extended the term of Copyright in a book to twenty-five years, reckoned from the death of the author.

On the sixth of April the House went into Committee on the bill, and Mr. Greene took the Chair. Several divisions took place, of which the result was that the plan suggested in the following Speech was, with some modifications, adopted.

Mr. Greene, —

I have been amused and gratified by the remarks which my noble friend [1] has made on the arguments by which I prevailed on the last House of Commons to reject the bill introduced by a very able and accomplished man, Mr. Serjeant Talfourd. My noble friend has done me a high and rare honour. For this is, I believe, the first occasion on which a speech made in one Parliament has been answered in another. I should not find it difficult to vindicate the soundness of the reasons which I formerly urged, to set them in a clearer light, and to fortify them by additional facts. But it seems to me that we had better discuss the bill which is now on our table than the bill which was there fourteen months ago. Glad I am to find that there is a very wide difference between the two bills, and that my noble friend, though he has tried to

[1] Lord Mahon.

refute my arguments, has acted as if he had been convinced by them. I objected to the term of sixty years as far too long. My noble friend has cut that term down to twenty-five years. I warned the House that, under the provisions of Mr. Serjeant Talfourd's bill, valuable works might not improbably be suppressed by the representatives of authors. My noble friend has prepared a clause which, as he thinks, will guard against that danger. I will not therefore waste the time of the Committee by debating points which he has conceded, but will proceed at once to the proper business of this evening.

Sir, I have no objection to the principle of my noble friend's bill. Indeed, I had no objection to the principle of the bill of last year. I have long thought that the term of copyright ought to be extended. When Mr. Serjeant Talfourd moved for leave to bring in his bill, I did not oppose the motion. Indeed I meant to vote for the second reading, and to reserve what I had to say for the Committee. But the learned Serjeant left me no choice. He, in strong language, begged that nobody who was disposed to reduce the term of sixty years would divide with him. "Do not," he said, "give me your support if all that you mean to grant to men of letters is a miserable addition of fourteen or fifteen years to the present term. I do not wish for such support. I despise it." Not wishing to obtrude on the learned Serjeant a support which he despised, I had no course left but to take the sense of the House on the second reading. The circumstances are now different. My noble friend's bill is not at present a good bill; but it may be improved into a very good bill; nor will he, I am persuaded, withdraw it if it should be so improved. He and I have the

same object in view; but we differ as to the best mode of attaining that object. We are equally desirous to extend the protection now enjoyed by writers. In what way it may be extended with most benefit to them and with least inconvenience to the public, is the question.

The present state of the law is this. The author of a work has a certain copyright in that work for a term of twenty-eight years. If he should live more than twenty-eight years after the publication of the work, he retains the copyright to the end of his life.

My noble friend does not propose to make any addition to the term of twenty-eight years. But he proposes that the copyright shall last twenty-five years after the author's death. Thus my noble friend makes no addition to that term which is certain, but makes a very large addition to that term which is uncertain.

My plan is different. I would make no addition to the uncertain term; but I would make a large addition to the certain term. I propose to add fourteen years to the twenty-eight years which the law now allows to an author. His copyright will, in this way, last till his death, or till the expiration of forty-two years, whichever shall first happen. And I think that I shall be able to prove to the satisfaction of the Committee that my plan will be more beneficial to literature and to literary men than the plan of my noble friend.

It must surely, Sir, be admitted that the protection which we give to books ought to be distributed as evenly as possible, that every book should have a fair share of that protection, and no book more than a fair share. It would evidently be absurd to put tickets into a wheel, with different numbers marked upon them, and to make writers draw, one a term of twenty-

eight years, another a term of fifty, another a term of ninety. And yet this sort of lottery is what my noble friend proposes to establish. I know that we cannot altogether exclude chance. You have two terms of copyright; one certain, the other uncertain; and we cannot, I admit, get rid of the uncertain term. It is proper, no doubt, that an author's copyright should last during his life. But, Sir, though we cannot altogether exclude chance, we can very much diminish the share which chance must have in distributing the recompense which we wish to give to genius and learning. By every addition which we make to the certain term we diminish the influence of chance; by every addition which we make to the uncertain term we increase the influence of chance. I shall make myself best understood by putting cases. Take two eminent female writers, who died within our own memory, Madame D'Arblay and Miss Austen. As the law now stands, Miss Austen's charming novels would have only from twenty-eight to thirty-three years of copyright. For that extraordinary woman died young: she died before her genius was fully appreciated by the world. Madame D'Arblay outlived the whole generation to which she belonged. The copyright of her celebrated novel, Evelina, lasted, under the present law, sixty-two years. Surely this inequality is sufficiently great, sixty-two years of copyright for Evelina, only twenty-eight for Persuasion. But to my noble friend this inequality seems not great enough. He proposes to add twenty-five years to Madame D'Arblay's term, and not a single day to Miss Austen's term. He would give to Persuasion a copyright of only twenty-eight years, as at present, and to Evelina a copyright more than three times as long, a copyright of eighty-

seven years. Now, is this reasonable? See, on the other hand, the operation of my plan. I make no addition at all to Madame D'Arblay's term of sixty-two years, which is, in my opinion, quite long enough; but I extend Miss Austen's term to forty-two years, which is, in my opinion, not too much. You see, Sir, that at present chance has too much sway in this matter; that at present the protection which the state gives to letters is very unequally given. You see that if my noble friend's plan be adopted, more will be left to chance than under the present system, and you will have such inequalities as are unknown under the present system. You see also that, under the system which I recommend, we shall have, not perfect certainty, not perfect equality, but much less uncertainty and inequality than at present.

But this is not all. My noble friend's plan is not merely to institute a lottery in which some writers will draw prizes and some will draw blanks. It is much worse than this. His lottery is so contrived that, in the vast majority of cases, the blanks will fall to the best books, and the prizes to books of inferior merit.

Take Shakespeare. My noble friend gives a longer protection than I should give to Love's Labour Lost, and Pericles, Prince of Tyre; but he gives a shorter protection than I should give to Othello and Macbeth.

Take Milton. Milton died in 1674. The copyrights of Milton's great works would, according to my noble friend's plan, expire in 1699. Comus appeared in 1634, the Paradise Lost in 1668. To Comus, then, my noble friend would give sixty-five years of copyright, and to the Paradise Lost only thirty-one years. Is that reasonable? Comus is a noble poem: but who would rank it with the Paradise Lost? My plan

would give forty-two years both to the Paradise Lost and to Comus.

Let us pass on from Milton to Dryden. My noble friend would give more than sixty years of copyright to Dryden's worst works; to the encomiastic verses on Oliver Cromwell, to the Wild Gallant, to the Rival Ladies, to other wretched pieces as bad as anything written by Flecknoe or Settle: but for Theodore and Honoria, for Tancred and Sigismunda, for Cimon and Iphigenia, for Palamon and Arcite, for Alexander's Feast, my noble friend thinks a copyright of twenty-eight years sufficient. Of all Pope's works, that to which my noble friend would give the largest measure of protection is the volume of Pastorals, remarkable only as the production of a boy. Johnson's first work was a Translation of a Book of Travels in Abyssinia, published in 1735. It was so poorly executed that in his later years he did not like to hear it mentioned. Boswell once picked up a copy of it, and told his friend that he had done so. "Do not talk about it," said Johnson: "it is a thing to be forgotten." To this performance my noble friend would give protection during the enormous term of seventy-five years. To the Lives of the Poets he would give protection during about thirty years. Well; take Henry Fielding; it matters not whom I take, but take Fielding. His early works are read only by the curious, and would not be read even by the curious, but for the fame which he acquired in the later part of his life by works of a very different kind. What is the value of the Temple Beau, of the Intriguing Chambermaid, of half a dozen other plays of which few gentlemen have even heard the names? Yet to these worthless pieces my noble friend would give a term of copyright longer by

more than twenty years than that which he would give to Tom Jones and Amelia.

Go on to Burke. His little tract, entitled The Vindication of Natural Society, is certainly not without merit; but it would not be remembered in our days if it did not bear the name of Burke. To this tract my noble friend would give a copyright of near seventy years. But to the great work on the French Revolution, to the Appeal from the New to the Old Whigs, to the letters on the Regicide Peace, he would give a copyright of thirty years or little more.

And, Sir, observe that I am not selecting here and there extraordinary instances in order to make up the semblance of a case. I am taking the greatest names of our literature in chronological order. Go to other nations; go to remote ages; you will still find the general rule the same. There was no copyright at Athens or Rome; but the history of the Greek and Latin literature illustrates my argument quite as well as if copyright had existed in ancient times. Of all the plays of Sophocles, the one to which the plan of my noble friend would have given the most scanty recompense would have been that wonderful masterpiece, the Œdipus at Colonos. Who would class together the Speech of Demosthenes against his Guardians, and the Speech for the Crown? My noble friend, indeed, would not class them together. For to the Speech against the Guardians he would give a copyright of near seventy years; and to the incomparable Speech for the Crown a copyright of less than half that length. Go to Rome. My noble friend would give more than twice as long a term to Cicero's juvenile declamation in defence of Roscius Amerinus

as to the Second Philippic. Go to France; my noble friend would give a far longer term to Racine's Frères Ennemis than to Athalie, and to Molière's Étourdi than to Tartuffe. Go to Spain. My noble friend would give a longer term to forgotten works of Cervantes, works which nobody now reads, than to Don Quixote. Go to Germany. According to my noble friend's plan, of all the works of Schiller the Robbers would be the most favoured: of all the works of Goethe, the Sorrows of Werter would be the most favoured. I thank the Committee for listening so kindly to this long enumeration. Gentlemen will perceive, I am sure, that it is not from pedantry that I mention the names of so many books and authors. But just as, in our debates on civil affairs, we constantly draw illustrations from civil history, we must, in a debate about literary property, draw our illustrations from literary history. Now, Sir, I have, I think, shown from literary history that the effect of my noble friend's plan would be to give to crude and imperfect works, to third-rate and fourth-rate works, a great advantage over the highest productions of genius. It is impossible to account for the facts which I have laid before you by attributing them to mere accident. Their number is too great, their character too uniform. We must seek for some other explanation; and we shall easily find one.

It is the law of our nature that the mind shall attain its full power by slow degrees; and this is especially true of the most vigorous minds. Young men, no doubt, have often produced works of great merit; but it would be impossible to name any writer of the first order whose juvenile performances were his best. That all the most valuable books of history, of phi-

lology, of physical and metaphysical science, of divinity, of political economy, have been produced by men of mature years, will hardly be disputed.

The case may not be quite so clear as respects works of the imagination. And yet I know no work of the imagination of the very highest class that was ever, in any age or country, produced by a man under thirty-five. Whatever powers a youth may have received from nature, it is impossible that his taste and judgment can be ripe, that his mind can be richly stored with images, that he can have observed the vicissitudes of life, that he can have studied the nicer shades of character. How, as Marmontel very sensibly said, is a person to paint portraits who has never seen faces? On the whole I believe that I may, without fear of contradiction, affirm this, that of the good books now extant in the world more than nineteen-twentieths were published after the writers had attained the age of forty. If this be so, it is evident that the plan of my noble friend is framed on a vicious principle. For, while he gives to juvenile productions a very much larger protection than they now enjoy, he does comparatively little for the works of men in the full maturity of their powers, and absolutely nothing for any work which is published during the last three years of the life of the writer. For, by the existing law, the copyright of such a work lasts twenty-eight years from the publication; and my noble friend gives only twenty-five years to be reckoned from the writer's death.

What I recommend is, that the certain term, reckoned from the date of publication, shall be forty-two years instead of twenty-eight years. In this arrangement there is no uncertainty, no inequality. The ad-

vantage which I propose to give will be the same to every book. No work will have so long a copyright as my noble friend gives to some books, or so short a copyright as he gives to others. No copyright will last ninety years. No copyright will end in twenty-eight years. To every book published in the course of the last seventeen years of a writer's life I give a longer term of copyright than my noble friend gives; and I am confident that no person versed in literary history will deny this, — that in general the most valuable works of an author are published in the course of the last seventeen years of his life. I will rapidly enumerate a few, and but a few, of the great works of English writers to which my plan is more favourable than my noble friend's plan. To Lear, to Macbeth, to Othello, to the Fairy Queen, to the Paradise Lost, to Bacon's Novum Organum and De Augmentis, to Locke's Essay on the Human Understanding, to Clarendon's History, to Hume's History, to Gibbon's History, to Smith's Wealth of Nations, to Addison's Spectators, to almost all the great works of Burke, to Clarissa and Sir Charles Grandison, to Joseph Andrews, Tom Jones, and Amelia, and, with the single exception of Waverley, to all the novels of Sir Walter Scott, I give a longer term of copyright than my noble friend gives. Can he match that list? Does not that list contain what England has produced greatest in many various ways, — poetry, philosophy, history, eloquence, wit, skilful portraiture of life and manners? I confidently, therefore, call on the Committee to take my plan in preference to the plan of my noble friend. I have shown that the protection which he proposes to give to letters is unequal, and unequal in the worst way. I have shown that his plan is to

give protection to books in inverse proportion to their merit. I shall move when we come to the third clause of the bill to omit the words "twenty-five years," and in a subsequent part of the same clause I shall move to substitute for the words "twenty-eight years" the words "forty-two years." I earnestly hope that the Committee will adopt these amendments; and I feel the firmest conviction that my noble friend's bill, so amended, will confer a great boon on men of letters with the smallest possible inconvenience to the public.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 3D OF MAY, 1842.

On the second of May, 1842, Mr. Thomas Duncombe, Member for Finsbury, presented a petition, very numerously signed, of which the prayer was as follows: —

"Your petitioners, therefore, exercising their just constitutional right, demand that your Honourable House, to remedy the many gross and manifest evils of which your petitioners complain, do immediately, without alteration, deduction, or addition, pass into a law the document entitled the People's Charter."

On the following day Mr. Thomas Duncombe moved that the petitioners should be heard by themselves or their Counsel at the Bar of the House. The following Speech was made in opposition to the motion.

The motion was rejected by 287 votes to 49.

Mr. Speaker, —

I was particularly desirous to catch your eye this evening, because, when the motion of the honourable member for Rochdale[1] was under discussion, I was unable to be in my place. I understand that, on that occasion, the absence of some members of the late Government was noticed in severe terms, and was attributed to discreditable motives. As for myself, Sir, I was prevented from coming down to the House by illness: a noble friend of mine, to whom particular allusion was made, was detained elsewhere by pure

[1] Mr. Sharman Crawford.

accident; and I am convinced that no member of the late administration was withheld by any unworthy feeling from avowing his opinions. My own opinions I could have no motive for disguising. They have been frequently avowed, and avowed before audiences which were not likely to regard them with much favour.

I should wish, Sir, to say what I have to say in the temperate tone which has with so much propriety been preserved by the right honourable Baronet the Secretary for the Home Department;[1] but, if I should use any warm expression, I trust that the House will attribute it to the strength of my convictions and to my solicitude for the public interests. No person who knows me will, I am quite sure, suspect me of regarding the hundreds of thousands who have signed the petition which we are now considering with any other feeling than cordial good will.

Sir, I cannot conscientiously assent to this motion. And yet I must admit that the honourable Member for Finsbury[2] has framed it with considerable skill. He has done his best to obtain the support of all those timid and interested politicians who think much more about the security of their seats than about the security of their country. It would be very convenient to me to give a silent vote with him. I should then have it in my power to say to the Chartists of Edinburgh, "When your petition was before the House I was on your side; I was for giving you a full hearing." I should at the same time be able to assure my conservative constituents that I never had supported and never would support the Charter. But, Sir, though this course would be very convenient, it is one which my sense of duty will not suffer me to take. When ques-

[1] Sir James Graham. [2] Mr. Thomas Duncombe.

tions of private right are before us we hear, and we ought to hear, the arguments of the parties interested in those questions. But it has never been, and surely it ought not to be, our practice to grant a hearing to persons who petition for or against a law in which they have no other interest than that which is common between them and the whole nation. Of the many who petitioned against slavery, against the Roman Catholic claims, against the corn laws, none was suffered to harangue us at the bar in support of his views. If in the present case we depart from a general rule which everybody must admit to be a very wholesome one, what inference can reasonably be drawn from our conduct, except this, that we think the petition which we are now considering entitled to extraordinary respect, and that we have not fully made up our minds to refuse what the petitioners ask. Now, Sir, I have fully made up my mind to resist to the last the change which they urge us to make in the constitution of the kingdom. I therefore think that I should act disingenuously if I gave my voice for calling in orators whose eloquence, I am certain, will make no alteration in my opinion. I think too that if, after voting for hearing the petitioners, I should then vote against granting their prayer, I should give them just ground for accusing me of having first encouraged and then deserted them. That accusation, at least, they shall never bring against me.

The honourable Member for Westminster[1] has expressed a hope that the language of the petition will not be subjected to severe criticism. If he means literary criticism, I entirely agree with him. The style of this composition is safe from any censure of mine;

[1] Mr. Leader.

but the substance it is absolutely necessary that we should closely examine. What the petitioners demand is this, that we do forthwith pass what is called the People's Charter into a law without alteration, diminution, or addition. This is the prayer in support of which the honourable Member for Finsbury would have us hear an argument at the bar. Is it then reasonable to say, as some gentlemen have said, that, in voting for the honourable member's motion, they mean to vote merely for an inquiry into the causes of the public distress? If any gentleman thinks that an inquiry into the causes of the public distress would be useful, let him move for such an inquiry. I will not oppose it. But this petition does not tell us to inquire. It tells us that we are not to inquire. It directs us to pass a certain law word for word, and to pass it without the smallest delay.

I shall, Sir, notwithstanding the request or command of the petitioners, venture to exercise my right of free speech on the subject of the People's Charter. There is, among the six points of the Charter, one for which I have voted. There is another of which I decidedly approve. There are others as to which, though I do not agree with the petitioners, I could go some way to meet them. In fact, there is only one of the six points on which I am diametrically opposed to them: but unfortunately that point happens to be infinitely the most important of the six.

One of the six points is the ballot. I have voted for the ballot; and I have seen no reason to change my opinion on that subject.

Another point is the abolition of the pecuniary qualification for members of this House. On that point I cordially agree with the petitioners. You have

established a sufficient pecuniary qualification for the elector; and it therefore seems to me quite superfluous to require a pecuniary qualification from the representative. Everybody knows that many English members have only fictitious qualifications, and that the members for Scotch cities and boroughs are not required to have any qualification at all. It is surely absurd to admit the representatives of Edinburgh and Glasgow without any qualification, and at the same time to require the representative of Finsbury or Marylebone to possess a qualification or the semblance of one. If the qualification really be a security for respectability, let that security be demanded from us who sit here for Scotch towns. If, as I believe, the qualification is no security at all, why should we require it from anybody? It is no part of the old constitution of the realm. It was first established in the reign of Anne. It was established by a bad parliament for a bad purpose. It was, in fact, part of a course of legislation which, if it had not been happily interrupted, would have ended in the repeal of the Toleration Act and of the Act of Settlement.

The Chartists demand annual parliaments. There, certainly, I differ from them: but I might, perhaps, be willing to consent to some compromise. I differ from them also as to the expediency of paying the representatives of the people, and of dividing the country into electoral districts. But I do not consider these matters as vital. The kingdom might, I acknowledge, be free, great, and happy, though the members of this House received salaries, and though the present boundaries of counties and boroughs were superseded by new lines of demarcation. These, Sir, are subordinate questions. I do not, of course, mean

that they are not important. But they are subordinate when compared with that question which still remains to be considered. The essence of the Charter is universal suffrage. If you withhold that, it matters not very much what else you grant. If you grant that, it matters not at all what else you withhold. If you grant that, the country is lost.

I have no blind attachment to ancient usages. I altogether disclaim what has been nicknamed the doctrine of finality. I have said enough to-night to show that I do not consider the settlement made by the Reform Bill as one which can last forever. I certainly do think that an extensive change in the polity of a nation must be attended with serious evils. Still those evils may be overbalanced by advantages: and I am perfectly ready, in every case, to weigh the evils against the advantages, and to judge as well as I can which scale preponderates. I am bound by no tie to oppose any reform which I think likely to promote the public good. I will go so far as to say that I do not quite agree with those who think that they have proved the People's Charter to be absurd when they have proved that it is incompatible with the existence of the throne and of the peerage. For though I am a faithful and loyal subject of Her Majesty, and though I sincerely wish to see the House of Lords powerful and respected, I cannot consider either monarchy or aristocracy as the ends of Government. They are only means. Nations have flourished without hereditary sovereigns or assemblies of nobles; and, though I should be very sorry to see England a republic, I do not doubt that she might, as a republic, enjoy prosperity, tranquillity, and high consideration. The dread and aversion with which I regard universal

suffrage would be greatly diminished, if I could believe that the worst effect which it would produce would be to give us an elective first magistrate and a senate instead of a Queen and a House of Peers. My firm conviction is that, in our country, universal suffrage is incompatible, not with this or that form of government, but with all forms of government, and with everything for the sake of which forms of government exist; that it is incompatible with property, and that it is consequently incompatible with civilisation.

It is not necessary for me in this place to go through the arguments which prove beyond dispute that on the security of property civilisation depends; that, where property is insecure, no climate however delicious, no soil however fertile, no conveniences for trade and navigation, no natural endowments of body or of mind, can prevent a nation from sinking into barbarism; that where, on the other hand, men are protected in the enjoyment of what has been created by their industry and laid up by their self-denial, society will advance in arts and in wealth notwithstanding the sterility of the earth and the inclemency of the air, notwithstanding heavy taxes and destructive wars. Those persons who say that England has been greatly misgoverned, that her legislation is defective, that her wealth has been squandered in unjust and impolitic contests with America and with France, do in fact bear the strongest testimony to the truth of my doctrine. For that our country has made and is making great progress in all that contributes to the material comfort of man is indisputable. If that progress cannot be ascribed to the wisdom of the Government, to what can we ascribe it, but to the diligence, the energy, the

thrift of individuals? And to what can we ascribe that diligence, that energy, that thrift, except to the security which property has during many generations enjoyed here? Such is the power of this great principle that, even in the last war, the most costly war, beyond all comparison, that ever was waged in this world, the Government could not lavish wealth so fast as the productive classes created it.

If it be admitted that on the institution of property the wellbeing of society depends, it follows surely that it would be madness to give supreme power in the state to a class which would not be likely to respect that institution. And, if this be conceded, it seems to me to follow that it would be madness to grant the prayer of this petition. I entertain no hope that, if we place the government of the kingdom in the hands of the majority of the males of one and twenty told by the head, the institution of property will be respected. If I am asked why I entertain no such hope, I answer, because the hundreds of thousands of males of twenty-one who have signed this petition tell me to entertain no such hope; because they tell me that, if I trust them with power, the first use which they will make of it will be to plunder every man in the kingdom who has a good coat on his back and a good roof over his head. God forbid that I should put an unfair construction on their language! I will read their own words. This petition, be it remembered, is an authoritative declaration of the wishes of those who, if the Charter ever becomes law, will return the great majority of the House of Commons; and these are their words: "Your petitioners complain, that they are enormously taxed to pay the interest of what is called the national debt, a debt amounting at present to eight

hundred millions, being only a portion of the enormous amount expended in cruel and expensive wars for the suppression of all liberty by men not authorised by the people, and who consequently had no right to tax posterity for the outrages committed by them upon mankind." If these words mean anything, they mean that the present generation is not bound to pay the public debt incurred by our rulers in past times, and that a national bankruptcy would be both just and politic. For my part, I believe it to be impossible to make any distinction between the right of a fundholder to his dividends and the right of a landowner to his rents. And, to do the petitioners justice, I must say that they seem to be much of the same mind. They are for dealing with fundholder and landowner alike. They tell us that nothing will "unshackle labour from its misery, until the people possess that power under which all monopoly and oppression must cease; and your petitioners respectfully mention the existing monopolies of the suffrage, of paper money, of machinery, of land, of the public press, of religion, of the means of travelling and transit, and a host of other evils too numerous to mention, all arising from class legislation." Absurd as this hubbub of words is, part of it is intelligible enough. What can the monopoly of land mean, except property in land? The only monopoly of land which exists in England is this, that nobody can sell an acre of land which does not belong to him. And what can the monopoly of machinery mean but property in machinery? Another monopoly which is to cease is the monopoly of the means of travelling. In other words, all the canal property and railway property in the kingdom is to be confiscated. What other sense do the words bear? And these are only specimens of

the reforms which, in the language of the petition, are to unshackle labour from its misery. There remains, it seems, a host of similar monopolies too numerous to mention : the monopoly, I presume, which a draper has of his own stock of cloth ; the monopoly which a hatter has of his own stock of hats ; the monopoly which we all have of our furniture, bedding, and clothes. In short, the petitioners ask you to give them power in order that they may not leave a man of a hundred a year in the realm.

I am far from wishing to throw any blame on the ignorant crowds which have flocked to the tables where this petition was exhibited. Nothing is more natural than that the labouring people should be deceived by the arts of such men as the author of this absurd and wicked composition. We ourselves, with all our advantages of education, are often very credulous, very impatient, very shortsighted, when we are tried by pecuniary distress or bodily pain. We often resort to means of immediate relief which, as Reason tells us, if we would listen to her, are certain to aggravate our sufferings. Men of great abilities and knowledge have ruined their estates and their constitutions in this way. How then can we wonder that men less instructed than ourselves, and tried by privations such as we have never known, should be easily misled by mountebanks who promise impossibilities ? Imagine a well meaning laborious mechanic fondly attached to his wife and children. Bad times come. He sees the wife whom he loves grow thinner and paler every day. His little ones cry for bread ; and he has none to give them. Then come the professional agitators, the tempters, and tell him that there is enough and more than enough for everybody, and that he has too little only because

landed gentlemen, fundholders, bankers, manufacturers, railway proprietors, shopkeepers, have too much. Is it strange that the poor man should be deluded, and should eagerly sign such a petition as this? The inequality with which wealth is distributed forces itself on everybody's notice. It is at once perceived by the eye. The reasons which irrefragably prove this inequality to be necessary to the wellbeing of all classes are not equally obvious. Our honest working man has not received such an education as enables him to understand that the utmost distress that he has ever known is prosperity, when compared with the distress which he would have to endure if there were a single month of general anarchy and plunder. But you say, It is not the fault of the labourer that he is not well educated. Most true. It is not his fault. But, though he has no share in the fault, he will, if you are foolish enough to give him supreme power in the state, have a very large share of the punishment. You say that, if the Government had not culpably omitted to establish a good system of public instruction, the petitioners would have been fit for the elective franchise. But is that a reason for giving them the franchise when their own petition proves that they are not fit for it, when they give us fair notice that, if we let them have it, they will use it to our ruin and their own? It is not necessary now to inquire whether, with universal education, we could safely have universal suffrage. What we are asked to do is to give universal suffrage before there is universal education. Have I any unkind feeling towards these poor people? No more than I have to a sick friend who implores me to give him a glass of iced water which the physician has forbidden. No more than a humane collector in India has

to those poor peasants who in a season of scarcity crowd round the granaries and beg with tears and piteous gestures that the doors may be opened and the rice distributed. I would not give the draught of water, because I know that it would be poison. I would not give up the keys of the granary, because I know that, by doing so, I should turn a scarcity into a famine. And in the same way I would not yield to the importunity of multitudes who, exasperated by suffering and blinded by ignorance, demand with wild vehemence the liberty to destroy themselves.

But it is said, You must not attach so much importance to this petition. It is very foolish, no doubt, and disgraceful to the author, be he who he may. But you must not suppose that those who signed it approve of it. They have merely put their names or their marks without weighing the sense of the document which they subscribed. Surely, Sir, of all reasons that ever were given for receiving a petition with peculiar honours, the strangest is that it expresses sentiments diametrically opposed to the real sentiments of those who have signed it. And it is a not less strange reason for giving men supreme power in a state that they sign political manifestoes of the highest importance without taking the trouble to know what the contents are. But how is it possible for us to believe that, if the petitioners had the power which they demand, they would not use it as they threaten? During a long course of years, numerous speakers and writers, some of them ignorant, others dishonest, have been constantly representing the Government as able to do, and bound to do, things which no Government can, without great injury to the country, attempt to do. Every man of sense knows that

the people support the Government. But the doctrine of the Chartist philosophers is that it is the business of the Government to support the people. It is supposed by many that our rulers possess, somewhere or other, an inexhaustible storehouse of all the necessaries and conveniences of life, and, from mere hardheartedness, refuse to distribute the contents of this magazine among the poor. We have all of us read speeches and tracts in which it seemed to be taken for granted that we who sit here have the power of working miracles, of sending a shower of manna on the West Riding, of striking the earth and furnishing all the towns of Lancashire with abundance of pure water, of feeding all the cottonspinners and weavers who are out of work with five loaves and two fishes. There is not a working man who has not heard harangues and read newspapers in which these follies are taught. And do you believe that as soon as you give the working men absolute and irresistible power they will forget all this? Yes, Sir, absolute and irresistible power. The Charter would give them no less. In every constituent body throughout the empire the working men will, if we grant the prayer of this petition, be an irresistible majority. In every constituent body capital will be placed at the feet of labour; knowledge will be borne down by ignorance; and is it possible to doubt what the result must be? The honourable Member for Bath and the honourable Member for Rochdale are now considered as very democratic members of Parliament. They would occupy a very different position in a House of Commons elected by universal suffrage, if they succeeded in obtaining seats. They would, I believe, honestly oppose every attempt to rob the public creditor. They would man-

fully say, "Justice and the public good require that this sum of thirty millions a year should be paid;" and they would immediately be reviled as aristocrats, monopolists, oppressors of the poor, defenders of old abuses. And as to land, is it possible to believe that the millions who have been so long and loudly told that the land is their estate, and is wrongfully kept from them, should not, when they have supreme power, use that power to enforce what they think their rights? What could follow but one vast spoliation? One vast spoliation! That would be bad enough. That would be the greatest calamity that ever fell on our country. Yet would that a single vast spoliation were the worst! No, Sir; in the lowest deep there would be a lower deep. The first spoliation would not be the last. How could it? All the causes which had produced the first spoliation would still operate. They would operate more powerfully than before. The distress would be far greater than before. The fences which now protect property would all have been broken through, levelled, swept away. The new proprietors would have no title to show to anything that they held except recent robbery. With what face then could they complain of being robbed? What would be the end of these things? Our experience, God be praised, does not enable us to predict it with certainty. We can only guess. My guess is that we should see something more horrible than can be imagined, something like the siege of Jerusalem on a far larger scale. There would be many millions of human beings, crowded in a narrow space, deprived of all those resources which alone had made it possible for them to exist in so narrow a space; trade gone; manufact-

ures gone; credit gone. What could they do but fight for the mere sustenance of nature, and tear each other to pieces, till famine, and pestilence following in the train of famine, came to turn the terrible commotion into a more terrible repose? The best event, the very best event, that I can anticipate, — and what must the state of things be, if an Englishman and a Whig calls such an event the very best? — the very best event, I say, that I can anticipate is that out of the confusion a strong military despotism may arise, and that the sword, firmly grasped by some rough hand, may give a sort of protection to the miserable wreck of all that immense prosperity and glory. But, as to the noble institutions under which our country has made such progress in liberty, in wealth, in knowledge, in arts, do not deceive yourselves into the belief that we should ever see them again. We should never see them again. We should not deserve to see them. All those nations which envy our greatness would insult our downfall, a downfall which would be all our own work; and the history of our calamities would be told thus: England had institutions which, though imperfect, yet contained within themselves the means of remedying every imperfection; those institutions her legislators wantonly and madly threw away; nor could they urge in their excuse even the wretched plea that they were deceived by false promises: for, in the very petition with the prayer of which they were weak enough to comply, they were told, in the plainest terms, that public ruin would be the effect of their compliance.

Thinking thus, Sir, I will oppose, with every faculty which God has given me, every motion which directly or indirectly tends to the granting of universal suffrage.

This motion, I think, tends that way. If any gentleman here is prepared to vote for universal suffrage with a full view of all the consequences of universal suffrage as they are set forth in this petition, he acts with perfect consistency in voting for this motion. But, I must say, I heard with some surprise the honourable Baronet, the Member for Leicester,[1] say that, though he utterly disapproves of the petition, though he thinks of it just as I do, he wishes the petitioners to be heard at the bar in explanation of their opinions. I conceive that their opinions are quite sufficiently explained already; and to such opinions I am not disposed to pay any extraordinary mark of respect. I shall give a clear and conscientious vote against the motion of the honourable Member for Finsbury; and I conceive that the petitioners will have much less reason to complain of my open hostility, than of the conduct of the honourable Member, who tries to propitiate them by consenting to hear their oratory, but has fully made up his mind not to comply with their demands.

[1] Sir John Easthope.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 9TH OF MARCH, 1843

On the ninth of March, 1843, Mr. Vernon Smith, Member for Northampton, made the following motion: —

"That this House, having regard to the high and important functions of the Governor General of India, the mixed character of the native population, and the recent measures of the Court of Directors for discontinuing any seeming sanction to idolatry in India, is of opinion that the conduct of Lord Ellenborough in issuing the General Orders of the sixteenth of November, 1842, and in addressing the letter of the same date to all the chiefs, princes, and people of India, respecting the restoration of the gates of a temple to Somnauth, is unwise, indecorous, and reprehensible."

Mr. Emerson Tennant, Secretary of the Board of Control, opposed the motion. In reply to him the following Speech was made.

The motion was rejected by 242 votes to 157.

Mr. Speaker, —

If the practice of the honourable gentleman, the Secretary of the Board of Control, had been in accordance with his precepts, if he had not, after exhorting us to confine ourselves strictly to the subject before us, rambled far from that subject, I should have refrained from all digression. For in truth there is abundance to be said touching both the substance and the style of this Proclamation. I cannot, however, leave the honourable gentleman's peroration entirely unnoticed. But I assure him that I do not mean to

wander from the question before us to any great distance or for any long time.

I cannot but wonder, Sir, that he who has, on this, as on former occasions, exhibited so much ability and acuteness, should have gravely represented it as a ground of complaint, that my right honourable friend, the Member for Northampton, has made this motion in the Governor General's absence. Does the honourable gentleman mean that this House is to be interdicted from ever considering in what manner Her Majesty's Asiatic subjects, a hundred millions in number, are governed? And how can we consider how they are governed without considering the conduct of him who is governing them? And how can we consider the conduct of him who is governing them, except in his absence? For my own part, I can say for myself, and I may, I doubt not, say for my right honourable friend, the Member for Northampton, that we both of us wish, with all our hearts and souls, that we were discussing this question in the presence of Lord Ellenborough. Would to heaven, Sir, for the sake of the credit of England, and of the interests of India, that the noble lord were at this moment under our gallery! But, Sir, if there be any Governor who has no right to complain of remarks made on him in his absence, it is that Governor who, forgetting all official decorum, forgetting how important it is that, while the individuals who serve the State are changed, the State should preserve its identity, inserted in a public proclamation reflections on his predecessor, a predecessor of whom, on the present occasion, I will only say that his conduct had deserved a very different return. I am confident that no enemy of Lord Auckland, if Lord Auckland has an enemy in the

House, will deny that, whatever faults he may have committed, he was faultless with respect to Lord Ellenborough. No brother could have laboured more assiduously for the interests and the honour of a brother than Lord Auckland laboured to facilitate Lord Ellenborough's arduous task, to prepare for Lord Ellenborough the means of obtaining success and glory. And what was the requital? A proclamation by Lord Ellenborough, stigmatising the conduct of Lord Auckland. And, Sir, since the honourable gentleman, the Secretary of the Board of Control, has thought fit to divert the debate from its proper course, I will venture to request that he, or the honourable director who sits behind him,[1] will vouchsafe to give us some explanations on an important point to which allusion has been made. Lord Ellenborough has been accused of having publicly announced that our troops were about to evacuate Afghanistan before he had ascertained that our captive countrymen and countrywomen had been restored to liberty. This accusation, which is certainly a serious one, the honourable gentleman, the Secretary of the Board of Control, pronounces to be a mere calumny. Now, Sir, the proclamation which announces the withdrawing of the troops bears date the first of October, 1842. What I wish to know is, whether any member of the Government, or of the Court of Directors, will venture to affirm that on the first of October, 1842, the Governor General knew that the prisoners had been set at liberty? I believe that no member either of the Government or of the Court of Directors will venture to affirm any such thing. It seems certain that on the first of October the Governor General

[1] Sir James Hogg.

could not know that the prisoners were safe. Nevertheless, the honourable gentleman, the Secretary of the Board of Control, assures us that, when the proclamation was drawn up, the Governor General did know that the prisoners were safe. What is the inevitable consequence? It is this, that the date is a false date, that the proclamation was written after the first of October, and antedated. And for what reason was it antedated? I am almost ashamed to tell the House what I believe to have been the reason. I believe that Lord Ellenborough affixed the false date of the first of October to his proclamation because Lord Auckland's manifesto against Afghanistan was dated on the first of October. I believe that Lord Ellenborough wished to make the contrast between his own success and his predecessor's failure more striking, and that for the sake of this paltry, this childish, triumph, he antedated his proclamation, and made it appear to all Europe and all Asia that the English Government was indifferent to the fate of Englishmen and Englishwomen who were in a miserable captivity. If this be so, and I shall be surprised to hear any person deny that it is so, I must say that by this single act, by writing those words, the first of October, the Governor General proved himself to be a man of an ill regulated mind, a man unfit for high public trust.

I might, Sir, if I chose to follow the example of the honourable gentleman, the Secretary of the Board of Control, advert to many other matters. I might call the attention of the House to the systematic manner in which the Governor General has exerted himself to lower the character and to break the spirit of that civil service on the respectability and efficiency of which

chiefly depends the happiness of a hundred millions of human beings. I might say much about the financial committee which he appointed in the hope of finding out blunders of his predecessor, but which at last found out no blunders except his own. But the question before us demands our attention. That question has two sides, a serious and a ludicrous side. Let us look first at the serious side. Sir, I disclaim in the strongest manner all intention of raising any fanatical outcry or of lending aid to any fanatical project. I would very much rather be the victim of fanaticism than its tool. If Lord Ellenborough were called in question for having given an impartial protection to the professors of different religions, or for restraining unjustifiable excesses into which Christian missionaries might have been hurried by their zeal, I would, widely as I have always differed from him in politics, have stood up in his defence, though I had stood up alone. But the charge against Lord Ellenborough is that he has insulted the religion of his own country and the religion of millions of the Queen's Asiatic subjects in order to pay honour to an idol. And this the right honourable gentleman, the Secretary of the Board of Control, calls a trivial charge. Sir, I think it a very grave charge. Her Majesty is the ruler of a larger heathen population than the world ever saw collected under the sceptre of a Christian sovereign since the days of the Emperor Theodosius. What the conduct of rulers in such circumstances ought to be is one of the most important moral questions, one of the most important political questions, that it is possible to conceive. There are subject to the British rule in Asia a hundred millions of people who do not profess the Christian faith. The Mahometans are a minority: but their importance is

much more than proportioned to their number: for they are an united, a zealous, an ambitious, a warlike class. The great majority of the population of India consists of idolaters, blindly attached to doctrines and rites which, considered merely with reference to the temporal interests of mankind, are in the highest degree pernicious. In no part of the world has a religion ever existed more unfavourable to the moral and intellectual health of our race. The Brahminical mythology is so absurd that it necessarily debases every mind which receives it as truth; and with this absurd mythology is bound up an absurd system of physics, an absurd geography, an absurd astronomy. Nor is this form of Paganism more favourable to art than to science. Through the whole Hindoo Pantheon you will look in vain for anything resembling those beautiful and majestic forms which stood in the shrines of ancient Greece. All is hideous, and grotesque, and ignoble. As this superstition is of all superstitions the most irrational, and of all superstitions the most inelegant, so is it of all superstitions the most immoral. Emblems of vice are objects of public worship. Acts of vice are acts of public worship. The courtesans are as much a part of the establishment of the temple, as much ministers of the god, as the priests. Crimes against life, crimes against property, are not only permitted but enjoined by this odious theology. But for our interference human victims would still be offered to the Ganges, and the widow would still be laid on the pile with the corpse of her husband, and burned alive by her own children. It is by the command and under the especial protection of one of the most powerful goddesses that the Thugs join themselves to the unsuspecting traveller, make friends with him, slip the

noose round his neck, plunge their knives in his eyes, hide him in the earth, and divide his money and baggage. I have read many examinations of Thugs; and I particularly remember an altercation which took place between two of those wretches in the presence of an English officer. One Thug reproached the other for having been so irreligious as to spare the life of a traveller when the omens indicated that their patroness required a victim. "How could you let him go? How can you expect the goddess to protect us if you disobey her commands? That is one of your North country heresies." Now, Sir, it is a difficult matter to determine in what way Christian rulers ought to deal with such superstitions as these. We might have acted as the Spaniards acted in the New World. We might have attempted to introduce our own religion by force. We might have sent missionaries among the natives at the public charge. We might have held out hopes of public employment to converts, and have imposed civil disabilities on Mahometans and Pagans. But we did none of these things; and herein we judged wisely. Our duty, as rulers, was to preserve strict neutrality on all questions merely religious: and I am not aware that we have ever swerved from strict neutrality for the purpose of making proselytes to our own faith. But we have, I am sorry to say, sometimes deviated from the right path in the opposite direction. Some Englishmen, who have held high office in India, seem to have thought that the only religion which was not entitled to toleration and to respect was Christianity. They regarded every Christian missionary with extreme jealousy and disdain; and they suffered the most atrocious crimes, if enjoined by the Hindoo superstition,

to be perpetrated in open day. It is lamentable to think how long after our power was firmly established in Bengal, we, grossly neglecting the first and plainest duty of the civil magistrate, suffered the practices of infanticide and Suttee to continue unchecked. We decorated the temples of the false gods. We provided the dancing girls. We gilded and painted the images to which our ignorant subjects bowed down. We repaired and embellished the car under the wheels of which crazy devotees flung themselves at every festival to be crushed to death. We sent guards of honour to escort pilgrims to the places of worship. We actually made oblations at the shrines of idols. All this was considered, and is still considered, by some prejudiced Anglo-Indians of the old school, as profound policy. I believe that there never was so shallow, so senseless a policy. We gained nothing by it. We lowered ourselves in the eyes of those whom we meant to flatter. We led them to believe that we attached no importance to the difference between Christianity and heathenism. Yet how vast that difference is! I altogether abstain from alluding to topics which belong to divines. I speak merely as a politician anxious for the morality and the temporal wellbeing of society. And, so speaking, I say that to countenance the Brahminical idolatry, and to discountenance that religion which has done so much to promote justice, and mercy, and freedom, and arts, and sciences, and good government, and domestic happiness, which has struck off the chains of the slave, which has mitigated the horrors of war, which has raised women from servants and playthings into companions and friends, is to commit high treason against humanity and civilisation.

Gradually a better system was introduced. A great

man whom we have lately lost, Lord Wellesley, led the way. He prohibited the immolation of female children; and this was the most unquestionable of all his titles to the gratitude of his country. In the year 1813 Parliament gave new facilities to persons who were desirous to proceed to India as missionaries. Lord William Bentinck abolished the Suttee. Shortly afterwards the Home Government sent out to Calcutta the important and valuable despatch to which reference has been repeatedly made in the course of this discussion. That despatch Lord Glenelg wrote, — I was then at the Board of Control, and can attest the fact, — with his own hand. One paragraph, the sixty-second, is of the highest moment. I know that paragraph so well that I could repeat it word for word. It contains in short compass an entire code of regulations for the guidance of British functionaries in matters relating to the idolatry of India. The orders of the Home Government were express, that the arrangements of the temples should be left entirely to the natives. A certain discretion was of course left to the local authorities as to the time and manner of dissolving that connection which had long existed between the English Government and the Brahminical superstition. But the principle was laid down in the clearest manner. This was in February, 1833. In the year 1838 another despatch was sent, which referred to the sixty-second paragraph of Lord Glenelg's despatch, and enjoined the Indian Government to observe the rules contained in that paragraph. Again, in the year 1841, precise orders were sent out on the same subject, orders which Lord Ellenborough seems to me to have studied carefully for the express purpose of disobeying them point by point, and in the most direct

manner. You murmur: but only look at the orders of the Directors and at the proclamation of the Governor General. The orders are, distinctly and positively, that the British authorities in India shall have nothing to do with the temples of the natives, shall make no presents to those temples, shall not decorate those temples, shall not pay any military honour to those temples. Now, Sir, the first charge which I bring against Lord Ellenborough is, that he has been guilty of an act of gross disobedience, that he has done that which was forbidden in the strongest terms by those from whom his power is derived. The Home Government says, Do not interfere in the concerns of heathen temples. Is it denied that Lord Ellenborough has interfered in the concerns of a heathen temple? The Home Government says, Make no presents to heathen temples. Is it denied that Lord Ellenborough has proclaimed to all the world his intention to make a present to a heathen temple? The Home Government says, Do not decorate heathen temples. Is it denied that Lord Ellenborough has proclaimed to all the world his intention to decorate a heathen temple? The Home Government says, Do not send troops to do honour to heathen temples. Is it denied that Lord Ellenborough sent a body of troops to escort these gates to a heathen temple? To be sure, the honourable gentleman, the Secretary of the Board of Control, tries to get rid of this part of the case in rather a whimsical manner. He says that it is impossible to believe that, by sending troops to escort the gates, Lord Ellenborough can have meant to pay any mark of respect to an idol. And why? Because, says the honourable gentleman, the Court of Directors had given positive

orders that troops should not be employed to pay marks of respect to idols. Why, Sir, undoubtedly, if it is to be taken for granted that Lord Ellenborough is a perfect man, if all our reasonings are to proceed on the supposition that he cannot do wrong, then I admit the force of the honourable gentleman's argument. But it seems to me a strange and a dangerous thing to infer a man's innocence merely from the flagrancy of his guilt. It is certain that the Home authorities ordered the Governor General not to employ the troops in the service of a temple. It is certain that Lord Ellenborough employed the troops to escort a trophy, an oblation, which he sent to the restored temple of Somnauth. Yes, the restored temple of Somnauth. Those are his lordship's words. They have given rise to some discussion, and seem not to be understood by everybody in the same sense. We all know that this temple is in ruins. I am confident that Lord Ellenborough knew it to be in ruins, and that his intention was to rebuild it at the public charge. That is the obvious meaning of his words. But, as this meaning is so monstrous that nobody here can venture to defend it, his friends pretend that he believed the temple to have been already restored, and that he had no thought of being himself the restorer. How can I believe this? How can I believe that, when he issued this proclamation, he knew nothing about the state of the temple to which he proposed to make an offering of such importance? He evidently knew that it had once been in ruins; or he would not have called it the restored temple. Why am I to suppose that he imagined it to have been rebuilt? He had people about him who knew it well, and who could have told him that it was in ruins still. To say

that he was not aware that it was in ruins is to say that he put forth this proclamation without taking the trouble to ask a single question of those who were close at hand and were perfectly competent to give him information. Why, Sir, this defence is itself an accusation. I defy the honourable gentleman, the Secretary of the Board of Control, I defy all human ingenuity, to get his lordship clear off from both the horns of this dilemma. Either way, he richly deserves a parliamentary censure. Either he published this proclamation in the recklessness of utter ignorance without making the smallest inquiry; or else he, an English and a Christian Governor, meant to build a temple to a heathen god at the public charge, in direct defiance of the commands of his official superiors. Turn and twist the matter which way you will, you can make nothing else of it. The stain is like the stain on Blue Beard's key, in the nursery tale. As soon as you have scoured one side clean, the spot comes out on the other.

So much for the first charge, the charge of disobedience. It is fully made out; but it is not the heaviest charge which I bring against Lord Ellenborough. I charge him with having done that which, even if it had not been, as it was, strictly forbidden by the Home authorities, it would still have been a high crime to do. He ought to have known, without any instructions from home, that it was his duty not to take part in disputes among the false religions of the East; that it was his duty, in his official character, to show no marked preference for any of those religions, and to offer no marked insult to any. But, Sir, he has paid unseemly homage to one of those religions; he has grossly insulted another; and he has selected as the

object of his homage the very worst and most degrading of those religions, and as the object of his insults the best and purest of them. The homage was paid to Lingamism. The insult was offered to Mahometanism. Lingamism is not merely idolatry, but idolatry in its most pernicious form. The honourable gentleman, the Secretary of the Board of Control, seemed to think that he had achieved a great victory when he had made out that his lordship's devotions had been paid, not to Vishnu, but to Siva. Sir, Vishnu is the preserving Deity of the Hindoo Mythology; Siva is the destroying Deity; and, as far as I have any preference for one of your Governor General's gods over another, I confess that my own tastes would lead me to prefer the preserving to the destroying power. Yes, Sir; the temple of Somnauth was sacred to Siva; and the honourable gentleman cannot but know by what emblem Siva is represented, and with what rites he is adored. I will say no more. The Governor General, Sir, is in some degree protected by the very magnitude of his offence. I am ashamed to name those things to which he is not ashamed to pay public reverence. This god of destruction, whose images and whose worship it would be a violation of decency to describe, is selected as the object of homage. As the object of insult is selected a religion which has borrowed much of its theology and much of its morality from Christianity, a religion which in the midst of Polytheism teaches the unity of God, and, in the midst of idolatry, strictly proscribes the worship of images. The duty of our Government is, as I said, to take no part in the disputes between Mahometans and idolaters. But, if our Government does take a part, there cannot be a doubt that Mahometanism is entitled

to the preference. Lord Ellenborough is of a different opinion. He takes away the gates from a Mahometan mosque, and solemnly offers them as a gift to a Pagan temple. Morally, this is a crime. Politically, it is a blunder. Nobody who knows anything of the Mahometans of India can doubt that this affront to their faith will excite their fiercest indignation. Their susceptibility on such points is extreme. Some of the most serious disasters that have ever befallen us in India have been caused by that susceptibility. Remember what happened at Vellore in 1806, and more recently at Bangalore. The mutiny of Vellore was caused by a slight shown to the Mahometan turban; the mutiny of Bangalore by disrespect said to have been shown to a Mahometan place of worship. If a Governor General had been induced by his zeal for Christianity to offer any affront to a mosque held in high veneration by Mussulmans, I should think that he had been guilty of indiscretion such as proved him to be unfit for his post. But to affront a mosque of peculiar dignity, not from zeal for Christianity, but for the sake of this loathsome god of destruction, is nothing short of madness. Some temporary popularity Lord Ellenborough may no doubt gain in some quarters. I hear, and I can well believe, that some bigoted Hindoos have hailed this proclamation with delight, and have begun to entertain a hope that the British Government is about to take their worship under its peculiar protection. But how long will that hope last? I presume that the right honourable Baronet, the First Lord of the Treasury, does not mean to suffer India to be governed on Brahminical principles. I presume that he will not allow the public revenue to be expended in rebuilding temples, adorning idols, and hiring courtesans. I have no doubt that there is al-

ready on the way to India such an admonition as will prevent Lord Ellenborough from persisting in the course on which he has entered. The consequence will be that the exultation of the Brahmins will end in mortification and anger. See then of what a complication of faults the Governor General is guilty. In order to curry favour with the Hindoos he has offered an inexpiable insult to the Mahometans; and now, in order to quiet the English, he is forced to disappoint and disgust the Hindoos. But, apart from the irritating effect which these transactions must produce on every part of the native population, is it no evil to have this continual wavering and changing? This is not the only case in which Lord Ellenborough has, with great pomp, announced intentions which he has not been able to carry into effect. It is his lordship's habit. He put forth a notification that his Durbar was to be honoured by the presence of Dost Mahomed. Then came a notification that Dost Mahomed would not make his appearance there. In the proclamation which we are now considering his lordship announced to all the princes of India his resolution to set up these gates at Somnauth. The gates, it is now universally admitted, will not be set up there. All India will see that the Governor General has changed his mind. The change may be imputed to mere fickleness and levity. It may be imputed to the disapprobation with which his conduct has been regarded here. In either case he appears in a light in which it is much to be deplored that a Governor General should appear.

So much for the serious side of this business; and now for the ludicrous side. Even in our mirth, however, there is sadness; for it is no light thing that he who represents the British nation in India should be a

jest to the people of India. We have sometimes sent them governors whom they loved, and sometimes governors whom they feared; but they never before had a governor at whom they laughed. Now, however, they laugh; and how can we blame them for laughing, when all Europe and all America are laughing too? You see, Sir, that the gentlemen opposite cannot keep their countenances. And no wonder. Was such a State paper ever seen in our language before? And what is the plea set up for all this bombast? Why, the honourable gentleman, the Secretary of the Board of Control, brings down to the House some translations of Persian letters from native princes. Such letters, as everybody knows, are written in a most absurd and turgid style. The honourable gentleman forces us to hear a good deal of this detestable rhetoric; and then he asks why, if the secretaries of the Nizam and of the King of Oude use all these tropes and hyperboles, Lord Ellenborough should not indulge in the same sort of eloquence? The honourable gentleman might as well ask why Lord Ellenborough should not sit cross-legged, why he should not let his beard grow to his waist, why he should not wear a turban, why he should not hang trinkets all about his person, why he should not ride about Calcutta on a horse jingling with bells and glittering with false pearls. The native princes do these things; and why should not he? Why, Sir, simply because he is not a native prince, but an English Governor General. When the people of India see a Nabob or a Rajah in all his gaudy finery, they bow to him with a certain respect. They know that the splendour of his garb indicates superior rank and wealth. But if Sir Charles Metcalfe had so bedizened himself, they would have thought that he was out of

his wits. They are not such fools as the honourable gentleman takes them for. Simplicity is not their fashion. But they understand and respect the simplicity of our fashions. Our plain clothing commands far more reverence than all the jewels which the most tawdry Zemindar wears; and our plain language carries with it far more weight than the florid diction of the most ingenious Persian scribe. The plain language and the plain clothing are inseparably associated in the minds of our subjects with superior knowledge, with superior energy, with superior veracity, with all the high and commanding qualities which erected, and which still uphold, our empire. Sir, if, as the speech of the honourable gentleman, the Secretary of the Board of Control, seems to indicate, Lord Ellenborough has adopted this style on principle, if it be his lordship's deliberate intention to mimic, in his State papers, the Asiatic modes of thought and expression, that alone would be a reason for recalling him. But the honourable gentleman is mistaken in thinking that this proclamation is in the Oriental taste. It bears no resemblance to the very bad Oriental compositions which he has read to us, nor to any other Oriental compositions that I ever saw. It is neither English nor Indian. It is not original, however; and I will tell the House where the Governor General found his models. He has apparently been studying the rants of the French Jacobins during the period of their ascendency, the Carmagnoles of the Convention, the proclamations issued by the Directory and its Proconsuls: and he has been seized with a desire to imitate those compositions. The pattern which he seems to have especially proposed to himself is the rodomontade in which it was announced that the modern Gauls were marching to Rome in order to avenge

the fate of Dumnorix and Vercingetorix. Everybody remembers those lines in which revolutionary justice is described by Mr. Canning: —

> "Not she in British courts who takes her stand,
> The dawdling balance dangling in her hand;
> But firm, erect, with keen reverted glance,
> The avenging angel of regenerate France,
> Who visits ancient sins on modern times,
> And punishes the Pope for Cæsar's crimes."

In the same spirit and in the same style our Governor General has proclaimed his intention to retaliate on the Mussulmans beyond the mountains the insults which their ancestors, eight hundred years ago, offered to the idolatry of the Hindoos. To do justice to the Jacobins, however, I must say that they had an excuse which was wanting to the noble lord. The revolution had made almost as great a change in literary tastes as in political institutions. The old masters of French eloquence had shared the fate of the old states and of the old parliaments. The highest posts in the administration were filled by persons who had no experience of affairs, who in the general confusion had raised themselves by audacity and quickness of natural parts, uneducated men or half educated men, who had no notion that the style in which they had heard the heroes and villains of tragedies declaim on the stage was not the style of real warriors and statesmen. But was it for an English gentleman, a man of distinguished abilities and cultivated mind, a man who had sate many years in parliament, and filled some of the highest posts in the state, to copy the productions of such a school?

But, it is said, what does it matter if the noble lord has written a foolish rhapsody which is neither prose nor verse? Is affected phraseology a subject for parliamentary censure? What great ruler can be named

who has not committed errors much more serious than the penning of a few sentences of turgid nonsense? This, I admit, sounds plausible. It is quite true that very eminent men, Lord Somers, for example, Sir Robert Walpole, Lord Chatham and his son, all committed faults which did much more harm than any fault of style can do. But I beg the House to observe this, that an error which produces the most serious consequences may not necessarily prove that the man who has committed it is not a very wise man; and that, on the other hand, an error which directly produces no important consequences may prove the man who has committed it to be quite unfit for public trust. Walpole committed a ruinous error when he yielded to the public cry for war with Spain. But, notwithstanding that error, he was an eminently wise man. Caligula, on the other hand, when he marched his soldiers to the beach, made them fill their helmets with cockle shells, and sent the shells to be placed in the Capitol as trophies of his conquests, did no great harm to anybody; but he surely proved that he was quite incapable of governing an empire. Mr. Pitt's expedition to Quiberon was most ill judged, and ended in defeat and disgrace. Yet Mr. Pitt was a statesman of a very high order. On the the other hand, such ukases as those by which the Emperor Paul used to regulate the dress of the people of Petersburg, though they caused much less misery than the slaughter at Quiberon, proved that the Emperor Paul could not safely be trusted with power over his fellow creatures. One day he forbade the wearing of pantaloons. Another day he forbade his subjects to comb their hair over their foreheads. Then he proscribed round hats. A young Englishman, the son of a merchant, thought to evade this decree by going

about the city in a hunting cap. Then came out an edict which made it penal to wear on the head a round thing such as the English merchant's son wore. Now, Sir, I say that, when I examine the substance of Lord Ellenborough's proclamation, and consider all the consequences which that paper is likely to produce, I am forced to say that he has committed a grave moral and political offence. When I examine the style, I see that he has committed an act of eccentric folly, much of the same kind with Caligula's campaign against the cockles, and with the Emperor Paul's ukase against round hats. Consider what an extravagant self-confidence, what a disdain for the examples of his great predecessors and for the opinions of the ablest and most experienced men who are now to be found in the Indian services, this strange document indicates. Surely it might have occurred to Lord Ellenborough that, if this kind of eloquence had been likely to produce a favourable impression on the minds of Asiatics, such Governors as Warren Hastings, Mr. Elphinstone, Sir Thomas Munro, and Sir Charles Metcalfe, men who were as familiar with the language and manners of the native population of India as any man here can be with the language and manners of the French, would not have left the discovery to be made by a new comer who did not know any Eastern tongue. Surely too it might have occurred to the noble lord that, before he put forth such a proclamation, he would do well to ask some person who knew India intimately what the effect both on the Mahometans and Hindoos was likely to be. I firmly believe that the Governor General either did not ask advice or acted in direct opposition to advice. Mr. Maddock was with his lordship as acting Secretary. Now I know enough of Mr. Maddock to be quite certain that he never counselled the Governor General to publish such a paper. I will

pawn my life that he either was never called upon to give an opinion, or that he gave an opinion adverse to the course which has been taken. No Governor General who was on good terms with the civil service would have been, I may say, permitted to expose himself thus. Lord William Bentinck and Lord Auckland were, to be sure, the last men in the world to think of doing such a thing as this. But if either of those noble lords, at some unlucky moment when he was not quite himself, when his mind was thrown off the balance by the pride and delight of an extraordinary success, had proposed to put forth such a proclamation, he would have been saved from committing so great a mistake by the respectful but earnest remonstrances of those in whom he placed confidence, and who were solicitous for his honour. From the appearance of this proclamation, therefore, I infer that the terms on which Lord Ellenborough is with the civil servants of the Company are such that those servants could not venture to offer him counsel when he most needed it.

For these reasons, Sir, I think the noble lord unfit for high public trust. Let us, then, consider the nature of the public trust which is now reposed in him. Are gentlemen aware that, even when he is at Calcutta, surrounded by his councillors, his single voice can carry any resolution concerning the executive administration against them all? They can object: they can protest: they can record their opinions in writing, and can require him to give in writing his reasons for persisting in his own course: but they must then submit. On the most important questions, on the question whether a war shall be declared, on the question whether a treaty shall be concluded, on the question whether the whole system of land revenue established in a great province shall be change-

his single vote weighs down the votes of all who sit at the Board with him. The right honourable Baronet opposite is a powerful minister, a more powerful minister than any that we have seen during many years. But I will venture to say that his power over the people of England is nothing when compared with the power which the Governor General possesses over the people of India. Such is Lord Ellenborough's power when he is with his council, and is to some extent held in check. But where is he now? He has given his council the slip. He is alone. He has near him no person who is entitled and bound to offer advice, asked or unasked: he asks no advice: and you cannot expect men to outstep the strict line of their official duty by obtruding advice on a superior by whom it would be ungraciously received. The danger of having a rash and flighty Governor General is sufficiently serious, at the very best. But the danger of having such a Governor General up the country, eight or nine hundred miles from any person who has a right to remonstrate with him, is fearful indeed. Interests so vast, that the most sober language in which they can be described sounds hyperbolical, are entrusted to a single man; to a man who, whatever his parts may be, and they are doubtless considerable, has shown an indiscretion and temerity almost beyond belief; to a man who has been only a few months in India; to a man who takes no counsel with those who are well acquainted with India.

I cannot sit down without addressing myself to those Directors of the East India Company who are present. I exhort them to consider the heavy responsibility which rests on them. They have the power to recall Lord Ellenborough: and I trust that they will not hesitate to exercise that power. This is the advice

of one who has been their servant, who has served them loyally, and who is still sincerely anxious for their credit and for the welfare of the empire of which they are the guardians. But if, from whatever cause, they are unwilling to recall the noble lord, then I implore them to take care that he be immediately ordered to return to Calcutta. Who can say what new freak we may hear of by the next mail? I am quite confident that neither the Court of Directors nor Her Majesty's Ministers can look forward to the arrival of that mail without great uneasiness. Therefore I say, send Lord Ellenborough back to Calcutta. There at least he will find persons who have a right to advise him and to expostulate with him, and who will, I doubt not, have also the spirit to do so. It is something that he will be forced to record his reasons for what he does. It is something that he will be forced to hear reasons against his propositions. It is something that a delay, though only of twenty-four hours, will be interposed between the first conception of a wild scheme and the execution. I am afraid that these checks will not be sufficient to prevent much evil: but they are not absolutely nugatory. I intreat the Directors to consider in what a position they will stand if, in consequence of their neglect, some serious calamity should befall the country which is confided to their care. I will only say, in conclusion, that, if there be any use in having a Council of India, if it be not meant that the members of Council should draw large salaries for doing nothing, if they are really appointed for the purpose of assisting and restraining the Governor, it is to the last degree absurd that their powers should be in abeyance when there is a Governor who, of all the Governors that ever England sent to the East, stands most in need both of assistance and of restraint.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 19TH OF FEBRUARY 1844.

On the thirteenth of February, 1844, Lord John Russell moved for a Committee of the whole House to take into consideration the state of Ireland. After a discussion of nine nights the motion was rejected by 324 votes to 225. On the fifth night of the debate the following Speech was made: —

I CANNOT refrain, Sir, from congratulating you and the House that I did not catch your eye when I rose before. I should have been extremely sorry to have prevented any Irish member from addressing the House on a question so interesting to Ireland, but peculiarly sorry to have stood in the way of the honourable gentleman who to-night pleaded the cause of his country with so much force and eloquence.[1]

I am sorry to say that I cannot reconcile it to my conscience to follow the advice which has been just given me by my honourable friend, the Member for Pomfret,[2] with all the authority which, as he has reminded us, belongs to his venerable youth. I cannot at all agree with him in thinking that the wisest thing that we can do is to suffer Her Majesty's Ministers to go on in their own way, seeing that the way in which they have long been going on is an exceedingly bad one. I support the motion of my noble friend for these plain reasons.

[1] Mr. J O'Brien.

[2] Mr. R. Milnes.

First, I hold that Ireland is in a most unsatisfactory, indeed in a most dangerous, state.

Secondly, I hold that for the state in which Ireland is Her Majesty's Ministers are in a great measure accountable, and that they have not shown, either as legislators or as administrators, that they are capable of remedying the evils which they have caused.

Now, Sir, if I make out these two propositions, it will follow that it is the constitutional right and duty of the representatives of the nation to interfere; and I conceive that my noble friend, by moving for a Committee of the whole House, has proposed a mode of interference which is both parliamentary and convenient.

My first proposition, Sir, will scarcely be disputed. Both sides of the House are fully agreed in thinking that the condition of Ireland may well excite great anxiety and apprehension. That island, in extent about one fourth of the United Kingdom, in population more than one fourth, superior probably in natural fertility to any area of equal size in Europe, possessed of natural facilities for trade such as can nowhere else be found in an equal extent of coast, an inexhaustible nursery of gallant soldiers, a country far more important to the prosperity, the strength, the dignity of this great empire than all our distant dependencies together, than the Canadas and the West Indies added to Southern Africa, to Australasia, to Ceylon, and to the vast dominions of the Moguls, that island, Sir, is acknowledged by all to be so ill affected and so turbulent that it must, in any estimate of our power, be not added but deducted. You admit that you govern that island, not as you govern England and Scotland, but as you govern your new conquests in Scinde; not by means of the respect which the people feel for the

laws, but by means of bayonets, of artillery, of entrenched camps.

My first proposition, then, I take to be conceded. Ireland is in a dangerous state. The question which remains to be considered is, whether for the state in which Ireland is Her Majesty's Ministers are to be held accountable.

Now, Sir, I at once admit that the distempers of Ireland must in part be attributed to causes for which neither Her Majesty's present Ministers nor any public men now living can justly be held accountable. I will not trouble the House with a long dissertation on those causes. But it is necessary, I think, to take at least a rapid glance at them: and in order to do so, Sir, we must go back to a period not only anterior to the birth of the statesmen who are now arrayed against each other on the right and left of your chair, but anterior to the birth even of the great parties of which those statesmen are the leaders; anterior to the days when the names of Tory and Whig, of court party and country party, of Cavalier and Roundhead, came into use; anterior to the existence of those Puritans to whom the honourable Member for Shrewsbury,[1] in a very ingenious speech, ascribed all the calamities of Ireland.

The primary cause is, no doubt, the manner in which Ireland became subject to the English crown. The annexation was effected by conquest, and by conquest of a peculiar kind. It was not a conquest such as we have been accustomed to see in modern Europe. It was not a conquest like that which united Artois and Franche Comté to France, or Silesia to Prussia. It was the conquest of a race by a race, such a con-

[1] Mr. Disraeli.

quest as that which established the dominion of the Spaniard over the American Indian, or of the Mahratta over the peasant of Guzerat or Tanjore. Of all forms of tyranny I believe that the worst is that of a nation over a nation. Populations separated by seas and mountain ridges may call each other natural enemies, may wage long wars with each other, may recount with pride the victories which they have gained over each other, and point to the flags, the guns, the ships which they have won from each other. But no enmity that ever existed between such populations approaches in bitterness the mutual enmity felt by populations which are locally intermingled, but which have never morally and politically amalgamated; and such were the Englishry and the Irishry. Yet it might have been hoped that the lapse of time and the progress of civilisation would have effaced the distinction between the oppressors and the oppressed. Our island had suffered cruelly from the same evil. Here the Saxon had trampled on the Celt, the Dane on the Saxon, the Norman on Celt, Saxon, and Dane. Yet in the course of ages all the four races had been fused together to form the great English people. A similar fusion would probably have taken place in Ireland but for the Reformation. The English settlers adopted the Protestant doctrines which were received in England. The Aborigines alone, among all the nations of the north of Europe, adhered to the ancient faith. Thus the line of demarcation between the two populations was deepened and widened. The old enmity was reinforced by a new enmity stronger still. Then came those events to which the honourable Member for Shrewsbury referred. The spirit of liberty in England was closely allied with the spirit of

Puritanism, and was mortally hostile to the Papacy. Such men as Hampden, Vane, Milton, Locke, though zealous generally for civil and spiritual freedom, yet held that the Roman Catholic worship had no claim to toleration. On the other hand, all the four kings of the House of Stuart showed far more favour to Roman Catholics than to any class of Protestant nonconformists. James the First at one time had some hopes of effecting a reconciliation with the Vatican. Charles the First entered into secret engagements to grant an indulgence to Roman Catholics. Charles the Second was a concealed Roman Catholic. James the Second was an avowed Roman Catholic. Consequently, through the whole of the seventeenth century, the freedom of Ireland and the slavery of England meant the same thing. The watchwords, the badges, the names, the places, the days, which in the mind of an Englishman were associated with deliverance, prosperity, national dignity, were in the mind of an Irishman associated with bondage, ruin, and degradation. The memory of William the Third, the anniversary of the battle of the Boyne, are instances. I was much struck by a circumstance which occurred on a day which I have every reason to remember with gratitude and pride, the day on which I had the high honour of being declared one of the first two members for the great borough of Leeds. My chair was covered with orange ribands. The horses which drew it could hardly be seen for the profusion of orange coloured finery with which they were adorned. Orange cockades were in all the hats; orange favours at all the windows. And my supporters, I need not say, were men who had, like myself, been zealous for Catholic emancipation. I could not help remarking that the badges seemed

rather incongruous. But I was told that the friends of Catholic emancipation in Yorkshire had always rallied under the orange banner, that orange was the colour of Sir George Savile, who brought in that bill which caused the No Popery riots of 1780, and that the very chair in which I sate was the chair in which Lord Milton, now Earl Fitzwilliam, had triumphed after the great victory which he won in 1807 over the No Popery party, then headed by the house of Harewood. I thought how different an effect that procession would have produced at Limerick or Cork, with what howls of rage and hatred the Roman Catholic population of those cities would have pursued that orange flag which, to every Roman Catholic in Yorkshire, was the memorial of contests maintained in favour of his own dearest rights. This circumstance, however slight, well illustrates the singular contrast between the history of England and the history of Ireland.

Well, Sir, twice during the seventeenth century the Irish rose up against the English colony. Twice they were completely put down; and twice they were severely chastised. The first rebellion was crushed by Oliver Cromwell; the second by William the Third. Those great men did not use their victory exactly in the same way. The policy of Cromwell was wise, and strong, and straightforward, and cruel. It was comprised in one word, which, as Clarendon tells us, was often in the mouths of the Englishry of that time. That word was extirpation. The object of Cromwell was to make Ireland thoroughly Anglo-Saxon and Protestant. If he had lived twenty years longer he might perhaps have accomplished that work: but he died while it was incomplete; and it died with him. The policy of William, or, to speak more correctly, of

those whose inclinations William was under the necessity of consulting, was less able, less energetic, and, though more humane in seeming, perhaps not more humane in reality. Extirpation was not attempted. The Irish Roman Catholics were permitted to live, to be fruitful, to replenish the earth: but they were doomed to be what the Helots were in Sparta, what the Greeks were under the Ottoman, what the blacks now are at New York. Every man of the subject caste was strictly excluded from public trust. Take what path he might in life, he was crossed at every step by some vexatious restriction. It was only by being obscure and inactive that he could, on his native soil, be safe. If he aspired to be powerful and honoured, he must begin by being an exile. If he pined for military glory, he might gain a cross or perhaps a Marshal's staff in the armies of France or Austria. If his vocation was to politics, he might distinguish himself in the diplomacy of Italy or Spain. But at home he was a mere Gibeonite, a hewer of wood and a drawer of water. The statute book of Ireland was filled with enactments which furnish to the Roman Catholics but too good a ground for recriminating on us when we talk of the barbarities of Bonner and Gardiner; and the harshness of those odious laws was aggravated by a more odious administration. For, bad as the legislators were, the magistrates were worse still. In those evil times originated that most unhappy hostility between landlord and tenant, which is one of the peculiar curses of Ireland. Oppression and turbulence reciprocally generated each other. The combination of rustic tyrants was resisted by gangs of rustic banditti. Courts of law and juries existed only for the benefit of the dominant sect. Those priests who

were revered by millions as their natural advisers and guardians, as the only authorised expositors of Christian truth, as the only authorised dispensers of the Christian sacraments, were treated by the squires and squireens of the ruling faction as no goodnatured man would treat the vilest beggar. In this manner a century passed away. Then came the French Revolution and the great awakening of the mind of Europe. It would have been wonderful indeed if, when the happiest and most tranquil nations were agitated by vague discontents and vague hopes, Ireland had remained at rest. Jacobinism, it is true, was not a very natural ally of the Roman Catholic religion. But common enmities produce strange coalitions; and a strange coalition was formed. There was a third great rising of the aboriginal population of the island against English and Protestant ascendency. That rising was put down by the sword; and it became the duty of those who were at the head of affairs to consider how the victory should be used.

I shall not be suspected of being partial to the memory of Mr. Pitt. But I cannot refuse to him the praise both of wisdom and of humanity, when I compare the plan which he formed in that hour of triumph with the plans of those English rulers who had before him governed Ireland. Of Mr. Pitt's plan the Union was a part, an excellent and an essential part indeed, but still only a part. We shall do great injustice both to his head and to his heart if we forget that he was permitted to carry into effect only some unconnected portions of a comprehensive and well concerted scheme. He wished to blend, not only the parliaments, but the nations, and to make the two islands one in interest and affection. With that view the

Roman Catholic disabilities were to be removed: the Roman Catholic priests were to be placed in a comfortable and honourable position; and measures were to be taken for the purpose of giving to Roman Catholics the benefits of liberal education. In truth Mr. Pitt's opinions on those subjects had, to a great extent, been derived from a mind even more powerful and capacious than his own, from the mind of Mr. Burke. If the authority of these two great men had prevailed, I believe that the Union with Ireland would now have been as secure, and as much beyond the reach of agitation, as the Union with Scotland. The Parliament in College Green would have been remembered as what it was, the most tyrannical, the most venal, the most unprincipled assembly that ever sate on the face of this earth. I do not think that, by saying this, I can give offence to any gentleman from Ireland, however zealous for Repeal he may be: for I only repeat the language of Wolfe Tone. Wolfe Tone said that he had seen more deliberative assemblies than most men; that he had seen the English Parliament, the American Congress, the French Council of Elders and Council of Five Hundred, the Batavian Convention; but that he had nowhere found anything like the baseness and impudence of the scoundrels, as he called them, at Dublin. If Mr. Pitt's whole plan had been carried into execution, that infamous parliament, that scandal to the name of parliament, would have perished unregretted; and the last day of its existence would have been remembered by the Roman Catholics of Ireland as the first day of their civil and religious liberty. The great boon which he would have conferred on them would have been gratefully received, because it could not have been ascribed to fear, be-

cause it would have been a boon bestowed by the powerful on the weak, by the victor on the vanquished. Unhappily, of all his projects for the benefit of Ireland, the Union alone was carried into effect; and therefore that Union was an Union only in name. The Irish found that they had parted with at least the name and show of independence, and that for this sacrifice of national pride they were to receive no compensation. The Union, which ought to have been associated in their minds with freedom and justice, was associated only with disappointed hopes and forfeited pledges. Yet it was not even then too late. It was not too late in 1813. It was not too late in 1821. It was not too late in 1825. Yes: if, even in 1825, some men who then were, as they now are, high in the service of the crown, could have made up their minds to do what they were forced to do four years later, that great work of conciliation which Mr. Pitt had meditated might have been accomplished. The machinery of agitation was not yet fully organised: the Government was under no strong pressure; and therefore concession might still have been received with thankfulness. That opportunity was suffered to escape; and it never returned.

In 1829, at length, concessions were made, were made largely, were made without the conditions which Mr. Pitt would undoubtedly have demanded, and to which, if demanded by Mr. Pitt, the whole body of Roman Catholics would have eagerly assented. But those concessions were made reluctantly, made ungraciously, made under duress, made from the mere dread of civil war. How then was it possible that they should produce contentment and repose? What could be the effect of that sudden and profuse liberality fol-

lowing that long and obstinate resistance to the most reasonable demands, except to teach the Irishman that he could obtain redress only by turbulence? Could he forget that he had been, during eight and twenty years, supplicating Parliament for justice, urging those unanswerable arguments which prove that the rights of conscience ought to be held sacred, claiming the performance of promises made by ministers and princes, and that he had supplicated, argued, claimed the performance of promises in vain? Could he forget that two generations of the most profound thinkers, the most brilliant wits, the most eloquent orators, had written and spoken for him in vain? Could he forget that the greatest statesmen who took his part had paid dear for their generosity? Mr. Pitt endeavoured to redeem his pledge; and he was driven from office. Lord Grey and Lord Grenville endeavoured to do but a very small part of what Mr. Pitt had thought right and expedient; and they were driven from office. Mr. Canning took the same side; and his reward was to be worried to death by the party of which he was the brightest ornament. At length, when he was gone, the Roman Catholics began to look, not to cabinets and parliaments, but to themselves. They displayed a formidable array of physical force, and yet kept within, just within, the limits of the law. The consequence was that, in two years, more than any prudent friend had ventured to demand for them was granted to them by their enemies. Yes; within two years after Mr. Canning had been laid in the transept near us, all that he would have done, and more than he could have done, was done by his persecutors. How was it possible that the whole Roman Catholic population of Ireland should not take up the notion that from England,

or at least from the party which then governed and which now governs England, nothing is to be got by reason, by entreaty, by patient endurance, but everything by intimidation? That tardy repentance deserved no gratitude, and obtained none. The whole machinery of agitation was complete and in perfect order. The leaders had tasted the pleasures of popularity; the multitude had tasted the pleasures of excitement. Both the demagogue and his audience felt a craving for the daily stimulant. Grievances enough remained, God knows, to serve as pretexts for agitation: and the whole conduct of the Government had led the sufferers to believe that by agitation alone could any grievance be removed.

Such, Sir, is the history of the rise and progress of the disorders of Ireland. Misgovernment, lasting without interruption from the reign of Henry the Second to the reign of William the Fourth, has left us an immense mass of discontent, which will, no doubt, in ordinary times, make the task of any statesman whom the Queen may call to power sufficiently difficult. But, though this be true, it is not less true, that the immediate causes of the extraordinary agitation which alarms us at this moment is to be found in the misconduct of Her Majesty's present advisers. For, Sir, though Ireland is always combustible, Ireland is not always on fire. We must distinguish between the chronic complaints which are to be attributed to remote causes, and the acute attack, which is brought on by recent imprudence. For, though there is always a predisposition to disease in that unhappy society, the violent paroxysms come only at intervals. I must own that I am indebted for some of my imagery to the right honourable Baronet the First Lord of the

Treasury. When he sate on this bench, and was only a candidate for the great place which he now fills, he compared himself to a medical man at the bedside of a patient. Continuing his metaphor, I may say that his prognosis, his diagnosis, his treatment, have all been wrong. I do not deny that the case was difficult. The sufferer was of a very ill habit of body, and had formerly suffered many things of many physicians, and, among others, I must say, of the right honourable Baronet himself. Still the malady had, a very short time ago, been got under, and kept under, by the judicious use of lenitives; and there was reason to hope that if that salutary regimen had been steadily followed, there would have been a speedy improvement in the general health. Unhappily, the new State hygeist chose to apply irritants which have produced a succession of convulsive fits, each more violent than that which preceded it. To drop the figure, it is impossible to doubt that Lord Melbourne's government was popular with the great body of the Roman Catholics of Ireland. It is impossible to doubt that the two Viceroys whom he sent to Ireland were more loved and honoured by the Irish people than any Viceroys before whom the sword of state has ever been borne. Under the late Government, no doubt, the empire was threatened by many dangers; but, to whatever quarter the Ministers might look with uneasy apprehension, to Ireland they could always look with confidence. When bad men raised disturbances here, when a Chartist rabble fired on the Queen's soldiers, numerous regiments could, without the smallest risk, be spared from Ireland. When a rebellion broke out in one of our colonies, — a rebellion too which it might have been expected that the Irish would regard with favour,

for it was a rebellion of Roman Catholics against Protestant rulers, — even then Ireland was true to the general interests of the empire, and troops were sent from Munster and Connaught to put down insurrection in Canada. No person will deny that if, in 1840, we had unhappily been forced into war, and if a hostile army had landed in Bantry Bay, the whole population of Cork and Tipperary would have risen up to defend the throne of Her Majesty, and would have offered to the invaders a resistance as determined as would have been offered by the men of Kent or Norfolk. And by what means was this salutary effect produced? Not by great legislative reforms: for, unfortunately, that Government, though it had the will, had not the power, to carry such reforms against the sense of a strong minority in this House, and of a decided majority of the Peers. No, Sir, this effect was produced merely by the wisdom, justice, and humanity with which the existing law, defective as it might be, was administered. The late Government, calumniated and thwarted at every turn, contending against the whole influence of the Established Church, and of the great body of the nobility and landed gentry, yet did show a disposition to act kindly and fairly towards Ireland, and did, to the best of its power, treat Protestants and Roman Catholics alike. If we had been as strong as our successors in parliamentary support, if we had been able to induce the two Houses to follow in legislation the same principles by which we were guided in administration, the Union with Ireland would now have been as secure from the assaults of agitators as the Union with Scotland. But this was not to be. During six years an opposition, formidable in numbers, formidable in ability, selected as the

especial object of the fiercest and most pertinacious attacks those very acts of the Government which had, after centuries of mutual animosity, half reconciled the two islands. Those Lords Lieutenants who, in Ireland, were venerated as no preceding Lord Lieutenant had ever been venerated, were here reviled as no preceding Lord Lieutenant had ever been reviled. Every action, every word which was applauded by the nation committed to their care, was here imputed to them as a crime. Every bill framed by the advisers of the Crown for the benefit of Ireland was either rejected or mutilated. A few Roman Catholics of distinguished merit were appointed to situations which were indeed below their just claims, but which were higher than any member of their Church had filled during many generations. Two or three Roman Catholics were sworn of the Council; one took his seat at the Board of Treasury; another at the Board of Admiralty. There was great joy in Ireland; and no wonder. What had been done was not much; but the ban had been taken off; the Emancipation Act, which had been little more than a dead letter, was at length a reality. But in England all the underlings of the great Tory party set up a howl of rage and hatred worthy of Lord George Gordon's No Popery mob. The right honourable Baronet now at the head of the Treasury, with his usual prudence, abstained from joining in the cry, and was content to listen to it, to enjoy it, and to profit by it. But some of those who ranked next to him among the chiefs of the opposition, did not imitate his politic reserve. One great man denounced the Irish as aliens. Another called them minions of Popery. Those teachers of religion to whom millions looked up with affection and reverence

were called by the Protestant press demon priests and surpliced ruffians, and were denounced from the Protestant pulpit as pontiffs of Baal, as false prophets who were to be slain with the sword. We were reminded that a Queen of the chosen people had in the old time patronised the ministers of idolatry, and that her blood had been given to the dogs. Not content with throwing out or frittering down every law beneficial to Ireland, not content with censuring in severe terms every act of the executive government which gave satisfaction in Ireland, you, yes, you, who now fill the great offices of state, assumed the offensive. From obstruction you proceeded to aggression. You brought in a bill which you called a Bill for the Registration of Electors in Ireland. We then told you that it was a bill for the wholesale disfranchisement of the electors of Ireland. We then proved incontrovertibly that, under pretence of reforming the law of procedure, you were really altering the substantive law; that, by making it impossible for any man to vindicate his right to vote without trouble, expense, and loss of time, you were really taking away the votes of tens of thousands. You denied all this then. You very coolly admit it all now. Am I to believe that you did not know it as well in 1841 as in 1844? Has one new fact been brought to light? Has one argument been discovered which was not, three or four years ago, urged twenty, thirty, forty times in this House? Why is it that you have, when in power, abstained from proposing that change in the mode of registration which, when you were out of power, you represented as indispensable? You excuse yourselves by saying that now the responsibilities of office are upon you. In plain words, your trick has served its purpose. Your object, — for I will

do justice to your patriotism, — your object was not to ruin your country, but to get in; and you are in. Such public virtue deserved such a reward, a reward which has turned out a punishment, a reward which ought to be, while the world lasts, a warning to unscrupulous ambition. Many causes contributed to place you in your present situation. But the chief cause was, beyond all doubt, the prejudice which you excited amongst the English against the just and humane manner in which the late ministers governed Ireland. In your impatience for office, you called up the devil of religious intolerance, a devil more easily evoked than dismissed. He did your work; and he holds your bond. You once found him an useful slave: but you have since found him a hard master. It was pleasant, no doubt, to be applauded by high churchmen and low churchmen, by the Sheldonian Theatre and by Exeter Hall. It was pleasant to be described as the champions of the Protestant faith, as the men who stood up for the Gospel against that spurious liberality which made no distinction between truth and falsehood. It was pleasant to hear your opponents called by every nickname that is to be found in the foul vocabulary of the Reverend Hugh MacNeill. It was pleasant to hear that they were the allies of Antichrist, that they were the servants of the man of sin, that they were branded with the mark of the Beast. But when all this slander and scurrility had raised you to power, when you found that you had to manage millions of those who had been, year after year, constantly insulted and defamed by yourselves and your lacqueys, your hearts began to fail you. Now you tell us that you have none but kind and respectful feelings towards the Irish Roman Catholics, that you

wish to conciliate them, that you wish to carry the Emancipation Act into full effect, that nothing would give you more pleasure than to place on the bench of justice a Roman Catholic lawyer of conservative politics, that nothing would give you more pleasure than to place at the Board of Treasury, or at the Board of Admiralty, some Roman Catholic gentleman of conservative politics, distinguished by his talents for business or debate. Your only reason, you assure us, for not promoting Roman Catholics is that all the Roman Catholics are your enemies; and you ask whether any minister can be expected to promote his enemies. For my part, I do not doubt that you would willingly promote Roman Catholics: for, as I have said, I give you full credit for not wishing to do your country more harm than is necessary for the purpose of turning out and keeping out the Whigs. I also fully admit that you cannot be blamed for not promoting your enemies. But what I want to know is, how it happens that all the Roman Catholics in the United Kingdom are your enemies. Was such a thing ever heard of before? Here are six or seven millions of people of all professions, of all trades, of all grades of rank, fortune, intellect, education. Begin with the premier Peer, the Earl Marshal of the realm, the chief of the Howards, the heir of the Mowbrays and Fitzalans, and go down through earls, barons, baronets, lawyers, and merchants, to the very poorest peasant that eats his potatoes without salt in Mayo; and all these millions to a man are arrayed against the Government. How do you explain this? Is there any natural connection between the Roman Catholic theology and the political theories held by Whigs and by reformers more democratical than the Whigs? Not only is there no

natural connection, but there is a natural opposition. Of all Christian sects the Roman Catholic Church holds highest the authority of antiquity, of tradition, of immemorial usage. Her spirit is eminently conservative, nay, in the opinion of all Protestants, conservative to an unreasonable and pernicious extent. A man who had been taught from childhood to regard with horror all innovation in religion is surely less likely than another man to be a bold innovator in politics. It is probable that a zealous Roman Catholic, if there were no disturbing cause, would be a Tory; and the Roman Catholics were all Tories till you persecuted them into Whiggism and Radicalism. In the civil war, how many Roman Catholics were there in Fairfax's army? I believe, not one. They were all under the banner of Charles the First. When a reward of five thousand pounds was offered for Charles the Second alive or dead, when to conceal him was to run a most serious risk of the gallows, it was among Roman Catholics that he found shelter. It has been the same in other countries. When everything else in France was prostrate before the Jacobins, the Roman Catholic peasantry of Britanny and Poitou still stood up for the House of Bourbon. Against the gigantic power of Napoleon, the Roman Catholic peasantry of the Tyrol maintained unaided the cause of the House of Hapsburg. It would be easy to multiply examples. And can we believe, in defiance of all reason and of all history, that, if the Roman Catholics of the United Kingdom had been tolerably well governed, they would not have been attached to the Government? In my opinion the Tories never committed so great an error as when they scourged away and spurned away the Roman Catholics. Mr. Burke understood this

well. The sentiment which, towards the close of his life, held entire possession of his mind, was a horror, — a morbid horror it at last became, — of Jacobinism, and of everything that seemed to him to tend towards Jacobinism: and, like a great statesman and philosopher, — for such he was even in his errors, — he perceived, and he taught Mr. Pitt to perceive, that, in the war against Jacobinism, the Roman Catholics were the natural allies of royalty and aristocracy. But the help of these allies was contumeliously rejected by those politicians who make themselves ridiculous by carousing on Mr. Pitt's birthday, while they abjure all Mr. Pitt's principles. The consequence is, as you are forced to own, that there is not in the whole kingdom a Roman Catholic of note who is your friend. Therefore, whatever your inclinations may be, you must entrust power in Ireland to Protestants, to Ultra-Protestants, to men who, whether they belong to Orange lodges or not, are in spirit Orangemen. Every appointment which you make increases the discontent of the Roman Catholics. The more discontented they are, the less you can venture to employ them. The way in which you treated them while you were in opposition has raised in them such a dislike and distrust of you that you cannot carry the Emancipation Act into effect, though, as you tell us, and as I believe, you sincerely desire to do so. As respects the offices of which you dispose, that Act is null and void. Of all the boons which that Act purports to bestow on Roman Catholics they really enjoy only one, admission to Parliament; and that they would not enjoy if you had been able three years ago to carry your Irish Registration Bill. You have wounded national feeling: you have wounded religious feeling: and the animosity

which you have roused shows itself in a hundred ways, some of which I abhor, some of which I lament, but at none of which I can wonder. They are the natural effects of insult and injury on quick and ill regulated sensibility. You, for your own purposes, inflamed the public mind of England against Ireland: and you have no right to be surprised by finding that the public mind of Ireland is inflamed against England. You called a fourth part of the people of the United Kingdom aliens: and you must not blame them for feeling and acting like aliens. You have filled every public department with their enemies. What then could you expect but that they would set up against your Lord Lieutenant and your official hierarchy a more powerful chief and a more powerful organisation of their own? They remember, and it would be strange indeed if they had forgotten, what, under the same chief, and by a similar organisation, they extorted from you in 1829; and they are determined to try whether you are bolder and more obstinate now than then.

Such are the difficulties of this crisis. To a great extent they are of your own making. And what have you done in order to get out of them? Great statesmen have sometimes committed great mistakes, and yet have by wisdom and firmness extricated themselves from the embarrassments which those mistakes had caused. Let us see whether you are entitled to rank among such statesmen. And first, what, — commanding, as you do, a great majority in this and in the other House of Parliament, — what have you done in the way of legislation? The answer is very short and simple. The beginning and end of all your legislation for Ireland will be found in the Arms Act of last session. You will hardly call that conciliation; and I

shall not call it coercion. It was mere petty annoyance. It satisfied nobody. We called on you to redress the wrongs of Ireland. Many of your own friends called on you to stifle her complaints. One noble and learned person was so much disgusted by your remissness that he employed his own great abilities and his own valuable time in framing a new coercion bill for you. You were deaf alike to us and to him. The whole fruit of your legislative wisdom was this one paltry teasing police regulation.

Your executive administration through the whole recess has been one long blunder. The way in which your Lord Lieutenant and his advisers acted about the Clontarf meeting would alone justify a severe vote of censure. The noble lord, the Secretary for the Colonies,[1] has told us that the Government did all that was possible to caution the people against attending that meeting, and that it would be unreasonable to censure men for not performing impossibilities. Now, Sir, the ministers themselves acknowledge that, as early as the morning of the Friday which preceded the day fixed for the meeting, the Lord Lieutenant determined to put forth a proclamation against the meeting. Yet the proclamation was not published in Dublin and the suburbs till after nightfall on Saturday. The meeting was fixed for the Sunday morning. Will any person have the hardihood to assert that it was impossible to have a proclamation drawn up, printed, and circulated in twenty-four hours, nay in six hours. It is idle to talk of the necessity of weighing well the words of such a document. The Lord Lieutenant should have weighed well the value of the lives of his royal mistress's subjects. Had he

[1] Lord Stanley.

done so, there can be no doubt that the proclamation might have been placarded on every wall in and near Dublin early in the forenoon of the Saturday. The negligence of the Government would probably have caused the loss of many lives but for the interposition of the man whom you are persecuting. Fortune stood your friend; and he stood your friend; and thus a slaughter more terrible than that which took place twenty-five years ago at Manchester was averted.

But you were incorrigible. No sooner had you, by strange good luck, got safe out of one scrape, than you made haste to get into another out of which, as far as I can see, you have no chance of escape. You instituted the most unwise, the most unfortunate of all state prosecutions. You seem not to have at all known what you were doing. It appears never to have occurred to you that there was any difference between a criminal proceeding which was certain to fix the attention of the whole civilised world and an ordinary *qui tam* action for a penalty. The evidence was such and the law such that you were likely to get a verdict and a judgment; and that was enough for you. Now, Sir, in such a case as this, the probability of getting the verdict and the judgment is only a part, and a very small part, of what a statesman ought to consider. Before you determined to bring the most able, the most powerful, the most popular of your opponents to the bar as a criminal, on account of the manner in which he had opposed you, you ought to have asked yourselves whether the decision which you expected to obtain from the tribunals would be ratified by the voice of your own country, of foreign countries, of posterity; whether the general opinion of mankind might not be that, though you were le-

gally in the right, you were morally in the wrong. It was no common person that you were bent on punishing. About that person, I feel, I own, considerable difficulty in saying anything. He is placed in a situation which would prevent generous enemies, which has prevented all the members of this house, with one ignominious exception, from assailing him acrimoniously. I will try, in speaking of him, to pay the respect due to eminence and to misfortune, without violating the respect due to truth. I am convinced that the end which he is pursuing is not only mischievous but unattainable: and some of the means which he has stooped to use for the purpose of attaining that end I regard with deep disapprobation. But it is impossible for me not to see that the place which he holds in the estimation of his countrymen is such as no popular leader in our history, I might perhaps say in the history of the world, has ever attained. Nor is the interest which he inspires confined to Ireland or to the United Kingdom. Go where you will on the continent: visit any coffee house: dine at any public table: embark on board of any steamboat: enter any diligence, any railway carriage: from the moment that your accent shows you to be an Englishman, the very first question asked by your companions, be they what they may physicians, advocates, merchants, manufacturers, or what we should call yeomen, is certain to be, "What will be done with Mr. O'Connell?" Look over any file of French journals, and you will see what a space he occupies in the eyes of the French people. It is most unfortunate, but it is a truth, and a truth which we ought always to bear in mind, that there is among our neighbours a feeling about the connection between

England and Ireland not very much unlike the feeling which exists here about the connection between Russia and Poland. All the sympathies of all continental politicians are with the Irish. We are regarded as the oppressors, and the Irish as the oppressed. An insurrection in Ireland would have the good wishes of a great majority of the people of Europe. And, Sir, it is natural that it should be so. For the cause of the Irish repealers has two different aspects, a democratic aspect, and a Roman Catholic aspect, and is therefore regarded with favour by foreigners of almost every shade of opinion. The extreme left — to use the French nomenclature — wishes success to a great popular movement against the throne and the aristocracy. The extreme right wishes success to a movement headed by the bishops and priests of the true church against a heretical government and a heretical hierarchy. The consequence is that, in a contest with Ireland, you will not have, out of this island, a single well-wisher in the world. I do not say this in order to intimidate you. But I do say that, on an occasion on which all Christendom was watching your conduct with an unfriendly and suspicious eye, you should have carefully avoided everything that looked like foul play. Unhappily you were too much bent on gaining the victory; and you have gained a victory more disgraceful and disastrous than any defeat. Mr. O'Connell has been convicted: but you cannot deny that he has been wronged: you cannot deny that irregularities have been committed, or that the effect of those irregularities has been to put you in a better situation and him in a worse situation than the law contemplated. It is admitted that names which ought to have been in the jury-list were not

there. It is admitted that all, or almost all, the names which were wrongfully excluded were the names of Roman Catholics. As to the number of those who were wrongfully excluded there is some dispute. An affidavit has been produced which puts the number at twenty-seven. The right honourable gentleman, the Recorder of Dublin, who of course puts the number as low as he conscientiously can, admits twenty-four. But some gentlemen maintain that this irregularity, though doubtless blamable, cannot have had any effect on the event of the trial. What, they ask, are twenty or twenty-seven names in seven hundred and twenty? Why, Sir, a very simple arithmetical calculation will show that the irregularity was of grave importance. Of the seven hundred and twenty, forty-eight were to be selected by lot, and then reduced by alternate striking to twelve. The forty-eighth part of seven hundred and twenty is fifteen. If, therefore, there had been fifteen more Roman Catholics in the jury-list, it would have been an even chance that there would have been one Roman Catholic more among the forty-eight. If there had been twenty-seven more Roman Catholics in the list it would have been almost an even chance that there would have been two Roman Catholics more among the forty-eight. Is it impossible, is it improbable that, but for this trick or this blunder, — I will not now inquire which, — the result of the trial might have been different? For, remember the power which the law gives to a single juror. He can, if his mind is fully made up, prevent a conviction. I heard murmurs when I used the word trick. Am I not justified in feeling a doubt which it is quite evident that Mr. Justice Perrin feels? He is reported

to have said, — and I take the report of newspapers favourable to the Government, — he is reported to have said that there had been great carelessness, great neglect of duty, that there were circumstances which raised grave suspicion, and that he was not prepared to say that the irregularity was accidental. The noble lord, the Secretary for the Colonies, has admonished us to pay respect to the judges. I am sure that I pay the greatest respect to everything that falls from Mr. Justice Perrin. He must know much better than I, much better than any English gentleman, what artifices are likely to be employed by Irish functionaries for the purpose of packing a jury; and he tells us that he is not satisfied that this irregularity was the effect of mere inadvertence. But, says the right honourable Baronet, the Secretary for the Home Department, "I am not responsible for this irregularity." Most true; and nobody holds the right honourable Baronet responsible for it. But he goes on to say, "I lament this irregularity most sincerely: for I believe that it has raised a prejudice against the administration of justice." Exactly so. That is just what I say. I say that a prejudice has been created against the administration of justice. I say that a taint of suspicion has been thrown on the verdict which you have obtained. And I ask whether it is right and decent in you to avail yourselves of a verdict on which such a taint has been thrown? The only wise, the only honourable course open to you was to say, "A mistake has been committed: that mistake has given us an unfair advantage; and of that advantage we will not make use." Unhappily, the time when you might have taken this course, and might thus to a great extent have repaired your former errors, has been suffered to elapse.

Well, you had forty-eight names taken by lot from this mutilated jury-list: and then came the striking. You struck out all the Roman Catholic names: and you give us your reasons for striking out these names, reasons which I do not think it worth while to examine. The real question which you should have considered was this: Can a great issue between two hostile religions — for such the issue was — be tried in a manner above all suspicion by a jury composed exclusively of men of one of those religions? I know that in striking out the Roman Catholics you did nothing that was not according to technical rules. But my great charge against you is that you have looked on this whole case in a technical point of view, that you have been attorneys when you should have been statesmen. The letter of the law was doubtless with you; but not the noble spirit of the law. The jury *de medietate linguæ* is of immemorial antiquity among us. Suppose that a Dutch sailor at Wapping is accused of stabbing an Englishman in a brawl. The fate of the culprit is decided by a mixed body, by six Englishmen and six Dutchmen. Such were the securities which the wisdom and justice of our ancestors gave to aliens. You are ready enough to call Mr. O'Connell an alien when it serves your purposes to do so. You are ready enough to inflict on the Irish Roman Catholic all the evils of alienage. But the one privilege, the one advantage of alienage, you deny him. In a case which of all cases most required a jury *de medietate*, in a case which sprang out of the mutual hostility of races and sects, you pack a jury all of one race and all of one sect. Why, if you were determined to go on with this unhappy prosecution, not have a common jury? There was no difficulty

in having such a jury; and among the jurors might have been some respectable Roman Catholics who were not members of the Repeal Association. A verdict of Not Guilty from such a jury would have done you infinitely less harm than the verdict of Guilty which you have succeeded in obtaining. Yes, you have obtained a verdict of Guilty; but you have obtained that verdict from twelve men brought together by illegal means, and selected in such a manner that their decision can inspire no confidence. You have obtained that verdict by the help of a Chief Justice of whose charge I can hardly trust myself to speak. To do him right, however, I will say that his charge was not, as it has been called, unprecedented; for it bears a very close resemblance to some charges which may be found in the state trials of the reign of Charles the Second. However, with this jury-list, with this jury, with this judge, you have a verdict. And what have you gained by it? Have you pacified Ireland? No doubt there is just at the present moment an apparent tranquillity; but it is a tranquillity more alarming than turbulence. The Irish will be quiet till you begin to put the sentence of imprisonment into execution, because, feeling the deepest interest in the fate of their persecuted Tribune, they will do nothing that can be prejudicial to him. But will they be quiet when the door of a gaol has been closed on him? Is it possible to believe that an agitator, whom they adored while his agitation was a source of profit to him, will lose his hold on their affections by being a martyr in what they consider as their cause? If I, who am strongly attached to the Union, who believe that the Repeal of the Union would be fatal to the empire, and who think Mr. O'Connell's conduct highly

reprehensible, cannot conscientiously say that he has had a fair trial, if the prosecutors themselves are forced to own that things have happened which have excited a prejudice against the verdict and the judgment, what must be the feelings of the people of Ireland, who believe not merely that he is guiltless, but that he is the best friend that they ever had? He will no longer be able to harangue them: but his wrongs will stir their blood more than his eloquence ever did; nor will he in confinement be able to exercise that influence which has so often restrained them, even in their most excited mood, from proceeding to acts of violence.

Turn where we will, the prospect is gloomy; and that which of all things most disturbs me is this, that your experience, sharp as it has been, does not seem to have made you wiser. All that I have been able to collect from your declarations leads me to apprehend that, while you continue to hold power, the future will be of a piece with the past. As to your executive administration, you hold out no hope that it will be other than it has been. If we look back, your only remedies for the disorders of Ireland have been an impolitic state prosecution, an unfair state trial, barracks and soldiers. If we look forward, you promise us no remedies but an unjust sentence, the harsh execution of that sentence, more barracks and more soldiers.

You do indeed try to hold out hopes of one or two legislative reforms beneficial to Ireland; but these hopes, I am afraid, will prove delusive. You hint that you have prepared a Registration Bill, of which the effect will be to extend the elective franchise. What the provisions of that bill may be we do not know. But this we know, that the matter is one about

which it is utterly impossible for you to do anything that shall be at once honourable to yourselves and useful to the country. Before we see your plan, we can say with perfect confidence that it must either destroy the last remnant of the representative system in Ireland, or the last remnant of your own character for consistency.

About the much agitated question of land tenure you acknowledge that you have at present nothing to propose. We are to have a report, but you cannot tell us when.

The Irish Church, as at present constituted and endowed, you are fully determined to uphold. On some future occasion, I hope to be able to explain at large my views on that subject. To-night I have exhausted my own strength, and I have exhausted also, I am afraid, the kind indulgence of the House. I will therefore only advert very briefly to some things which have been said about the Church in the course of the present debate.

Several gentlemen opposite have spoken of the religious discord which is the curse of Ireland in language which does them honour; and I am only sorry that we are not to have their votes as well as their speeches. But from the Treasury bench we have heard nothing but this, that the Established Church is there, and that there it must and shall remain. As to the Speech of the noble lord, the Secretary for the Colonies, really when we hear such a pitiable defence of a great institution from a man of such eminent abilities, what inference can we draw but that the institution is altogether indefensible? The noble lord tells us that the Roman Catholics, in 1757, when they were asking to be relieved from the penal laws, and in

1792, when they were asking to be relieved from civil disabilities, professed to be quite willing that the Established Church should retain its endowments. What is it to us, Sir, whether they did or not? If you can prove this Church to be a good institution, of course it ought to be maintained. But do you mean to say that a bad institution ought to be maintained because some people who have been many years in their graves said that they did not complain of it? What if the Roman Catholics of the present generation hold a different language on this subject from the Roman Catholics of the last generation? Is this inconsistency, which appears to shock the noble lord, anything but the natural and inevitable progress of all reform? People who are oppressed, and who have no hope of obtaining entire justice, beg to be relieved from the most galling part of what they suffer. They assure the oppressor that if he will only relax a little of his severity they shall be quite content; and perhaps, at the time, they believe that they shall be content. But are expressions of this sort, are mere supplications uttered under duress, to estop every person who utters them, and all his posterity to the end of time, from asking for entire justice? Am I debarred from trying to recover property of which I have been robbed, because, when the robber's pistol was at my breast, I begged him to take everything that I had and to spare my life? The noble lord knows well that, while the slave trade existed, the great men who exerted themselves to put an end to that trade disclaimed all thought of emancipating the negroes. In those days, Mr. Pitt, Mr. Fox, Lord Grenville, Lord Grey, and even my dear and honoured friend, of whom I can never speak without emotion, Mr. Wilberforce, always said that it was a

calumny to accuse them of intending to liberate the black population of the sugar islands. In 1807 the present Duke of Northumberland, then Lord Percy, in the generous enthusiasm of youth, rose to propose in this House the abolition of slavery. Mr. Wilberforce interposed, nay, I believe, almost pulled Lord Percy down. Nevertheless in 1833 the noble lord the Secretary for the Colonies, brought in a bill to abolish slavery. Suppose that when he resumed his seat, after making that most eloquent speech in which he explained his plan to us, some West Indian planter had risen, and had said that in 1792, in 1796, in 1807, all the leading philanthropists had solemnly declared that they had no intention of emancipating the negroes; would not the noble lord have answered that nothing that had been said by anybody in 1792 or 1807 could bind us not to do what was right in 1833?

This is not the only point on which the noble lord's speech is quite at variance with his own conduct. He appeals to the fifth article of the Treaty of Union. He says that, if we touch the revenues and privileges of the Established Church, we shall violate that article; and to violate an article of the Treaty of Union is, it seems, a breach of public faith of which he cannot bear to think. But, Sir, why is the fifth article to be held more sacred than the fourth, which fixes the number of Irish members who are to sit in this House? The fourth article, we all know, has been altered. And who brought in the bill which altered that article? The noble lord himself.

Then the noble lord adverts to the oath taken by Roman Catholic members of this House. They bind themselves, he says, not to use their power for the purpose of injuring the Established Church. I am sorry

that the noble lord is not at this moment in the House. Had he been here I should have made some remarks which I now refrain from making on one or two expressions which fell from him. But, Sir, let us allow to his argument all the weight which he can himself claim for it. What does it prove? Not that the Established Church of Ireland is a good institution; not that it ought to be maintained; but merely this, that, when we are about to divide on the question whether it shall be maintained, the Roman Catholic members ought to walk away to the library. The oath which they have taken is nothing to me and to the other Protestant members who have not taken it. Suppose then our Roman Catholic friends withdrawn. Suppose that we, the six hundred and twenty or thirty Protestant members, remain in the House. Then there is an end of this argument about the oath. Will the noble lord then be able to give us any reason for maintaining the Church of Ireland on the present footing?

I hope, Sir, that the right honourable Baronet the First Lord of the Treasury will not deal with this subject as his colleagues have dealt with it. We have a right to expect that a man of his capacity, placed at the head of government, will attempt to defend the Irish Church in a manly and rational way. I would beg him to consider these questions: — For what ends do Established Churches exist? Does the Established Church of Ireland accomplish those ends or any one of those ends? Can an Established Church which has no hold on the hearts of the body of the people be otherwise than useless, or worse than useless? Has the Established Church of Ireland any hold on the hearts of the body of the people? Has it been successful in making proselytes? Has it been what the Established

Church of England has been with justice called, what the Established Church of Scotland was once with at least equal justice called, the poor man's Church? Has it trained the great body of the people to virtue, consoled them in affliction, commanded their reverence, attached them to itself and to the State? Show that these questions can be answered in the affirmative; and you will have made, what I am sure has never yet been made, a good defence of the Established Church of Ireland. But it is mere mockery to bring us quotations from forgotten speeches, and from mouldy petitions presented to George the Second at a time when the penal laws were still in full force.

And now, Sir, I must stop. I have said enough to justify the vote which I shall give in favour of the motion of my noble friend. I have shown, unless I deceive myself, that the extraordinary disorders which now alarm us in Ireland have been produced by the fatal policy of the Government. I have shown that the mode in which the Government is now dealing with those disorders is far more likely to inflame than to allay them. While this system lasts, Ireland can never be tranquil; and till Ireland is tranquil, England can never hold her proper place among the nations of the world. To the dignity, to the strength, to the safety of this great country, internal peace is indispensably necessary. In every negotiation, whether with France on the right of search, or with America on the line of boundary, the fact that Ireland is discontented is uppermost in the minds of the diplomatists on both sides, making the representative of the British Crown timorous, and making his adversary bold. And no wonder. This is indeed a great and splendid empire, well provided with the means both of annoyance and

of defence. England can do many things which are beyond the power of any other nation in the world. She has dictated peace to China. She rules Caffraria and Australasia. She could again sweep from the ocean all commerce but her own. She could again blockade every port from the Baltic to the Adriatic. She is able to guard her vast Indian dominions against all hostility by land or sea. But in this gigantic body there is one vulnerable spot near to the heart. At that spot forty-six years ago a blow was aimed which narrowly missed, and which, if it had not missed, might have been deadly. The government and the legislature, each in its own sphere, is deeply responsible for the continuance of a state of things which is fraught with danger to the State. From my share of that responsibility I shall clear myself by the vote which I am about to give; and I trust that the number and the respectability of those in whose company I shall go into the lobby will be such as to convince the Roman Catholics of Ireland that they need not yet relinquish all hope of obtaining relief from the wisdom and justice of an Imperial Parliament.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 6TH OF JUNE, 1844.

An attempt having been made to deprive certain dissenting congregations of property which they had long enjoyed, on the ground that they did not hold the same religious opinions that had been held by the purchasers from whom they derived their title to that property, the Government of Sir Robert Peel brought in a bill fixing a time of limitation in such cases. The time fixed was twenty-five years.

The bill, having passed the Lords, came down to the House of Commons. On the sixth of June, 1844, the second reading was moved by the Attorney General, Sir William Follett. Sir Robert Inglis, Member for the University of Oxford, moved that the bill should be read a second time that day six months; and the amendment was seconded by Mr. Plumtre, Member for Kent. Early in the debate the following Speech was made.

The second reading was carried by 307 votes to 117.

If, Sir, I should unhappily fail in preserving that tone in which the question before us ought to be debated, it will assuredly not be for want either of an example or of a warning. The honourable and learned Member who moved the second reading has furnished me with a model which I cannot too closely imitate; and from the honourable Member for Kent, if I can learn nothing else, I may at least learn what temper and what style I ought most carefully to avoid.

I was very desirous, Sir, to catch your eye, not because I was so presumptuous as to hope that I should be able to add much to the powerful and luminous argument of the honourable and learned gentle-

man who has, to our great joy, again appeared among us to-night; but because I thought it desirable that, at an early period in the debate, some person whose seat is on this side of the House, some person strongly opposed to the policy of the present Government, should say, what I now say with all my heart, that this is a bill highly honourable to that Government, a bill framed on the soundest principles, and evidently introduced from the best and purest motives. This praise is a tribute due to Her Majesty's Ministers; and I have great pleasure in paying it.

I have great pleasure also in bearing my testimony to the humanity, the moderation, and the decorum with which my honourable friend, the Member for the University of Oxford, has expressed his sentiments. I must particularly applaud the resolution which he announced, and to which he strictly adhered, of treating this question as a question of *meum* and *tuum*, and not as a question of orthodoxy and heterodoxy. With him it is possible to reason. But how am I to reason with the honourable Member for Kent, who has made a speech without one fact, one argument, one shadow of an argument, a speech made up of nothing but vituperation? I grieve to say that the same bitterness of theological animosity which characterised that speech may be discerned in too many of the petitions with which, as he boasts, our table has been heaped day after day. The honourable Member complains that those petitions have not been treated with proper respect. Sir, they have been treated with much more respect than they deserved. He asks why we are to suppose that the petitioners are not competent to form a judgment on this question? My answer is, that they have certified their incompetence under their own hands. They have, with scarcely

one exception, treated this question as a question of divinity, though it is purely a question of property: and when I see men treat a question of property as if it were a question of divinity, I am certain that, however numerous they may be, their opinion is entitled to no consideration. If the persons whom this bill is meant to relieve are orthodox, that is no reason for our plundering anybody else in order to enrich them. If they are heretics, that is no reason for our plundering them in order to enrich others. I should not think myself justified in supporting this bill, if I could not with truth declare that, whatever sect had been in possession of these chapels, my conduct would have been precisely the same. I have no peculiar sympathy with Unitarians. If these people, instead of being Unitarians, had been Roman Catholics, or Wesleyan Methodists, or General Baptists, or Particular Baptists, or members of the Old Secession Church of Scotland, or members of the Free Church of Scotland, I should speak as I now speak, and vote as I now mean to vote.

Sir, the whole dispute is about the second clause of this bill. I can hardly conceive that any gentleman will vote against the bill on account of the error in the marginal note on the third clause. To the first clause my honourable friend, the Member for the University of Oxford, said, if I understood him rightly, that he had no objection; and indeed a man of his integrity and benevolence could hardly say less after listening to the lucid and powerful argument of the Attorney General. It is therefore on the second clause that the whole question turns.

The second clause, Sir, rests on a principle simple, well known, and most important to the welfare of all classes of the community. That principle is this, that

prescription is a good title to property, that there ought to be a time of limitation, after which a possessor, in whatever way his possession may have originated, must not be dispossessed. Till very lately, Sir, I could not have imagined that, in any assembly of reasonable, of civilised, of educated men, it could be necessary for me to stand up in defence of that principle. I should have thought it as much a waste of the public time to make a speech on such a subject as to make a speech against burning witches, against trying writs of right by wager of battle, or against requiring a culprit to prove his innocence by walking over red hot ploughshares. But I find that I was in error. Certain sages, lately assembled in conclave at Exeter Hall, have done me the honour to communicate to me the fruits of their profound meditations on the science of legislation. They have, it seems, passed a resolution declaring that the principle, which I had supposed that no man out of Bedlam would ever question, is an untenable principle, and altogether unworthy of a British Parliament. They have been pleased to add, that the present Government cannot, without gross inconsistency, call on Parliament to pass a statute of limitation. And why? Will the House believe it? Because the present Government has appointed two new Vice Chancellors.

Really, Sir, I do not know whether the opponents of this bill shine more as logicians or as jurists. Standing here as the advocate of prescription, I ought not to forget that prescriptive right of talking nonsense which gentlemen who stand on the platform of Exeter Hall are undoubtedly entitled to claim. But, though I recognise the right, I cannot but think that it may be abused, and that it has been abused on the present occasion. One thing at least is clear, that, if Exeter

Hall be in the right, all the masters of political philosophy, all the great legislators, all the systems of law by which men are and have been governed in all civilised countries, from the earliest times, must be in the wrong. How indeed can any society prosper, or even exist, without the aid of this untenable principle, this principle unworthy of a British legislature? This principle was found in the Athenian law. This principle was found in the Roman law. This principle was found in the laws of all those nations of which the jurisprudence was derived from Rome. This principle was found in the law administered by the Parliament of Paris; and, when that Parliament and the law which it administered had been swept away by the Revolution, this principle reappeared in the Code Napoleon. Go westward, and you find this principle recognised beyond the Mississippi. Go eastward, and you find it recognised beyond the Indus, in countries which never heard the name of Justinian, in countries to which no translation of the Pandects ever found its way. Look into our own laws; and you will see that the principle, which is now designated as unworthy of Parliament, has guided Parliament ever since Parliament existed. Our first statute of limitation was enacted at Merton, by men some of whom had borne a part in extorting the Great Charter and the Forest Charter from King John. From that time to this it has been the study of a succession of great lawyers and statesmen to make the limitation more and more stringent. The Crown and the Church indeed were long exempted from the general rule. But experience fully proved that every such exemption was an evil; and a remedy was at last applied. Sir George Savile, the model of English country gentlemen, was the author of the Act which barred the claims of the

Crown. That eminent magistrate, the late Lord Tenterden, was the author of the Act which barred the claims of the Church. Now, Sir, how is it possible to believe that the Barons, whose seals are upon our Great Charter, would have perfectly agreed with the great jurists who framed the Code of Justinian, with the great jurists who framed the Code of Napoleon, with the most learned English lawyers of the nineteenth century, and with the Pundits of Benares, unless there had been some strong and clear reason which necessarily led men of sense in every age and country to the same conclusion? Nor is it difficult to see what the reason was. For it is evident that the principle which silly and ignorant fanatics have called untenable is essential to the institution of property, and that, if you take away that principle, you will produce evils resembling those which would be produced by a general confiscation. Imagine what would follow if the maxims of Exeter Hall were introduced into Westminster Hall. Imagine a state of things in which one of us should be liable to be sued on a bill of exchange indorsed by his grandfather in 1760. Imagine a man possessed of an estate and manor house which had descended to him through ten or twelve generations of ancestors, and yet liable to be ejected because some flaw had been detected in a deed executed three hundred years ago, in the reign of Henry the Eighth. Why, Sir, should we not all cry out that it would be better to live under the rule of a Turkish Pasha than under such a system? Is it not plain that the enforcing of an obsolete right is the inflicting of a wrong? Is it not plain that, but for our statutes of limitation, a lawsuit would be merely a grave, methodical robbery? I am ashamed to argue a point so clear.

And if this be the general rule, why should the case which we are now considering be an exception to that rule? I have done my best to understand why. I have read much bad oratory, and many foolish petitions. I have heard with attention the reasons of my honourable friend, the Member for the University of Oxford; and I should have heard the reasons of the honourable Member for Kent, if there had been any to hear. Every argument by which my honourable friend, the Member for the University of Oxford, tried to convince us that this case is an exception to the general rule, will be found on examination to be an argument against the general rule itself. He says that the possession which we propose to sanction was originally a wrongful possession. Why, Sir, all the statutes of limitation that ever were made sanction possession which was originally wrongful. It is for the protection of possessors who are not in condition to prove that their possession was originally rightful that statutes of limitation are passed. Then my honourable friend says that this is an *ex post facto* law. Why, Sir, so are all our great statutes of limitation. Look at the Statute of Merton, passed in 1235; at the Statute of Westminster, passed in 1275; at the Statute of James the First, passed in 1623; at Sir George Savile's Act, passed in the last century; at Lord Tenterden's Act, passed in our own time. Every one of those Acts was retrospective. Every one of them barred claims arising out of past transactions. Nor was any objection ever raised to what was so evidently just and wise, till bigotry and chicanery formed that disgraceful league against which we are now contending. But, it is said, it is unreasonable to grant a boon to men because they have been many years doing wrong. The length of the time during

which they have enjoyed property not rightfully their own, is an aggravation of the injury which they have committed, and is so far from being a reason for letting them enjoy that property forever, that it is rather a reason for compelling them to make prompt restitution. With this childish sophistry the petitions on our table are filled. Is it possible that any man can be so dull as not to perceive that, if this be a reason, it is a reason against all our statutes of limitation? I do a greater wrong to my tailor if I withhold payment of his bill during six years than if I withhold payment only during two years. Yet the law says that at the end of two years he may bring an action and force me to pay him with interest, but that after the lapse of six years he cannot force me to pay him at all. It is much harder that a family should be kept out of its hereditary estate during five generations than during five days. But if you are kept out of your estate five days you have your action of ejectment; and, after the lapse of five generations, you have no remedy. I say, therefore, with confidence, that every argument which has been urged against this bill is an argument against the great principle of prescription. I go further, and I say that, if there be any case which, in an especial manner, calls for the application of the principle of prescription, this is that case. For the Unitarian congregations have laid out so much on these little spots of ground that it is impossible to take the soil from them without taking from them property which is of much greater value than the mere soil, and which is indisputably their own. This is not the case of a possessor who has been, during many years, receiving great emoluments from land to which he had not a good title. It is the case of a possessor who has, from resources which were undoubtedly

his own, expended on the land much more than it was originally worth. Even in the former case, it has been the policy of all wise lawgivers to fix a time of limitation. *À fortiori*, therefore, there ought to be a time of limitation in the latter case.

And here, Sir, I cannot help asking gentlemen to compare the petitions for this bill with the petitions against it. Never was there such a contrast. The petitions against the bill are filled with cant, rant, scolding, scraps of bad sermons. The petitions in favour of the bill set forth in the simplest manner great practical grievances. Take, for instance, the case of Cirencester. The meeting house there was built in 1730. It is certain that the Unitarian doctrines were taught there as early as 1742. That was only twelve years after the chapel had been founded. Many of the original subscribers must have been living. Many of the present congregation are lineal descendants of the original subscribers. Large sums have from time to time been laid out in repairing, enlarging, and embellishing the edifice; and yet there are people who think it just and reasonable that this congregation should, after the lapse of more than a century, be turned out. At Norwich, again, a great dissenting meeting house was opened in 1688. It is not easy to say how soon Anti-Trinitarian doctrines were taught there. The change of sentiment in the congregation seems to have been gradual: but it is quite certain that, in 1754, ninety years ago, both pastor and flock were decidedly Unitarian. Round the chapel is a cemetery filled with the monuments of eminent Unitarians. Attached to the chapel are a school-house and a library, built and fitted up by Unitarians. And now the occupants find that their title is disputed. They cannot ven-

ture to build; they cannot venture to repair; and they are anxiously awaiting our decision. I do not know that I have cited the strongest cases. I am giving you the ordinary history of these edifices. Go to Manchester. Unitarianism has been taught there at least seventy years in a chapel on which the Unitarians have expended large sums. Go to Leeds. Four thousand pounds have been subscribed for the repairing of the Unitarian chapel there, the chapel where, near eighty years ago, Priestley, the great Doctor of the sect, officiated. But these four thousand pounds are lying idle. Not a pew can be repaired till it is known whether this bill will become law. Go to Maidstone. There Unitarian doctrines have been taught during at least seventy years; and seven hundred pounds have recently been laid out by the congregation in repairing the chapel. Go to Exeter. It matters not where you go. But go to Exeter. There Unitarian doctrines have been preached more than eighty years; and two thousand pounds have been laid out on the chapel. It is the same at Coventry, at Bath, at Yarmouth, every where. And will a British Parliament rob the possessors of these buildings? I can use no other word. How should we feel if it were proposed to deprive any other class of men of land held during so long a time, and improved at so large a cost? And, if this property should be transferred to those who covet it, what would they gain in comparison with what the present occupants would lose? The pulpit of Priestley, the pulpit of Lardner, are objects of reverence to congregations which hold the tenets of Priestley and Lardner. To the intruders those pulpits will be nothing; nay, worse than nothing; memorials of heresiarchs. Within these chapels and all around them are the tablets

which the pious affection of four generations has placed over the remains of dear mothers and sisters, wives and daughters, of eloquent preachers, of learned theological writers. To the Unitarian, the building which contains these memorials is a hallowed building. To the intruder, it is of no more value than any other room in which he can find a bench to sit on and a roof to cover him. If, therefore, we throw out this bill, we do not merely rob one set of people in order to make a present to another set. That would be bad enough. But we rob the Unitarians of that which they regard as a most precious treasure; of that which is endeared to them by the strongest religious and the strongest domestic associations; of that which cannot be wrenched from them without inflicting on them the bitterest pain and humiliation. To the Trinitarians we give that which can to them be of little or no value except as a trophy of a most inglorious victory won in a most unjust war.

But, Sir, an imputation of fraud has been thrown on the Unitarians; not, indeed, here, but in many other places; and in one place of which I would always wish to speak with respect. The Unitarians, it has been said, knew that the original founders of these chapels were Trinitarians; and to use, for the purpose of propagating Unitarian doctrine, a building erected for the purpose of propagating Trinitarian doctrine was grossly dishonest. One very eminent person[1] has gone so far as to maintain that the Unitarians cannot pretend to any prescription of more than sixty-three years; and he proves his point thus: Till the year 1779, he says, no dissenting teacher was within the protection of the Toleration Act unless he subscribed

[1] The Bishop of London.

those articles of the Church of England which affirm the Athanasian doctrine. It is evident that no honest Unitarian can subscribe those articles. The inference is, that the persons who preached in these chapels down to the year 1779 must have been either Trinitarians or rogues. Now, Sir, I believe that they were neither Trinitarians nor rogues; and I cannot help suspecting that the great prelate who brought this charge against them is not so well read in the history of the nonconformist sects as in the history of that Church of which he is an ornament. The truth is that, long before the year 1779, the clause of the Toleration Act which required dissenting ministers to subscribe thirty-five or thirty-six of our thirty-nine articles had almost become obsolete. Indeed, that clause had never been rigidly enforced. From the very first there were some dissenting ministers who refused to subscribe, and yet continued to preach. Calamy was one; and he was not molested. And if this could be done in the year in which the Toleration Act passed, we may easily believe that, at a later period, the law would not have been very strictly observed. New brooms, as the vulgar proverb tells us, sweep clean; and no statute is so rigidly enforced as a statute just made. But, Sir, so long ago as the year 1711, the provisions of the Toleration Act on this subject were modified. In that year the Whigs, in order to humour Lord Nottingham, with whom they had coalesced against Lord Oxford, consented to let the Occasional Conformity Bill pass; but they insisted on inserting in the bill a clause which was meant to propitiate the dissenters. By this clause it was enacted that, if an information were laid against a dissenting minister for having omitted to subscribe the articles, the defendant

might, by subscribing at any stage of the proceedings anterior to the judgment, defeat the information, and throw all the costs on the informer. The House will easily believe that, when such was the state of the law, informers were not numerous. Indeed, during the discussions of 1773, it was distinctly affirmed, both in Parliament and in manifestoes put forth by the dissenting body, that the majority of nonconformist ministers then living had never subscribed. All arguments, therefore, grounded on the insincerity which has been rashly imputed to the Unitarians of former generations, fall at once to the ground.

But, it is said, the persons who, in the reigns of James the Second, of William the Third, and of Anne, first established these chapels, held the doctrine of the Trinity; and therefore, when, at a later period, the preachers and congregations departed from the doctrine of the Trinity, they ought to have departed from the chapels too. The honourable and learned gentleman, the Attorney General, has refuted this argument so ably that he has scarcely left anything for me to say about it. It is well known that the change which, soon after the Revolution, began to take place in the opinions of a section of the old Puritan body, was a gradual, an almost imperceptible, change. The principle of the English Presbyterians was to have no confession of faith and no form of prayer. Their trust deeds contained no accurate theological definitions. Nonsubscription was in truth the very bond which held them together. What, then, could be more natural than that, Sunday by Sunday, the sermons should have become less and less like those of the old Calvinistic divines, that the doctrine of the Trinity should have been less and less frequently mentioned, that at

last it should have ceased to be mentioned, and that thus in the course of years, preachers and hearers should, by insensible degrees, have become first Arians, then, perhaps, Socinians. I know that this explanation has been treated with disdain by people profoundly ignorant of the history of English nonconformity. I see that my right honourable friend near me [1] does not assent to it. Will he permit me to refer him to an analogous case with which he cannot but be well acquainted? No person in the House is more versed than he in the ecclesiastical history of Scotland; and he will, I am sure, admit that some of the doctrines now professed by the Scotch sects which sprang from the secessions of 1733 and 1760 are such as the seceders of 1733 and the seceders of 1760 would have regarded with horror. I have talked with some of the ablest, most learned, and most pious of the Scotch dissenters of our time; and they all fully admitted that they held more than one opinion which their predecessors would have considered as impious. Take the question of the connection between Church and State. The seceders of 1733 thought that the connection ought to be much closer than it is. They blamed the legislature for tolerating heresy. They maintained that the Solemn League and Covenant was still binding on the kingdom. They considered it as a national sin that the validity of the Solemn League and Covenant was not recognised at the time of the Revolution. When George Whitfield went to Scotland, though they approved of his Calvinistic opinions, and though they justly admired that natural eloquence which he possessed in so wonderful a degree, they would hold no communion with him because he would not subscribe

[1] Mr. Fox Maule.

the Solemn League and Covenant. Is that the doctrine of their successors? Are the Scotch dissenters now averse to toleration? Are they not zealous for the voluntary system? Is it not their constant cry that it is not the business of the civil magistrate to encourage any religion, false or true? Does any Bishop now abhor the Solemn League and Covenant more than they? Here is an instance in which numerous congregations have, retaining their identity, passed gradually from one opinion to another opinion. And would it be just, would it be decent in me, to impute dishonesty to them on that account? My right honourable friend may be of opinion that the question touching the connection between the Church and State is not a vital question. But was that the opinion of the divines who drew up the Secession Testimony? He well knows that in their view a man who denied that it was the duty of the government to defend religious truth with the civil sword was as much a heretic as a man who denied the doctrine of the Trinity.

Again, Sir, take the case of the Wesleyan Methodists. They are zealous against this bill. They think it monstrous that a chapel originally built for people holding one set of doctrines should be occupied by people holding a different set of doctrines. I would advise them to consider whether they cannot find in the history of their own body reasons for being a little more indulgent. What were the opinions of that great and good man, their founder, on the question whether men not episcopally ordained could lawfully administer the Eucharist? He told his followers that lay administration was a sin which he never could tolerate. Those were the very words which he used; and I believe that, during his lifetime, the Eucharist never was

administered by laymen in any place of worship which was under his control. After his death, however, the feeling in favour of lay administration became strong and general among his disciples. The Conference yielded to that feeling. The consequence is that now, in every chapel which belonged to Wesley, those who glory in the name of Wesleyans commit, every Sacrament Sunday, what Wesley declared to be a sin which he would never tolerate. And yet these very persons are not ashamed to tell us in loud and angry tones that it is fraud, downright fraud, in a congregation which has departed from its original doctrines to retain its original endowments. I believe, Sir, that if you refuse to pass this bill, the Courts of Law will soon have to decide some knotty questions which, as yet, the Methodists little dream of.

It has, I own, given me great pain to observe the unfair and acrimonious manner in which too many of the Protestant nonconformists have opposed this bill. The opposition of the Established Church has been comparatively mild and moderate; and yet from the Established Church we had less right to expect mildness and moderation. It is certainly not right, but it is very natural, that a church, ancient and richly endowed, closely connected with the Crown and the aristocracy, powerful in parliament, dominant in the universities, should sometimes forget what is due to poorer and humbler Christian societies. But when I hear a cry for what is nothing less than persecution set up by men who have been, over and over again within my own memory, forced to invoke in their own defence the principles of toleration, I cannot but feel astonishment mingled with indignation. And what above all excites both my astonishment and my indignation is

this, that the most noisy among the noisy opponents of the bill which we are considering are some sectaries who are at this very moment calling on us to pass another bill of just the same kind for their own benefit. I speak of those Irish Presbyterians who are asking for an *ex post facto* law to confirm their marriages. See how exact the parallel is between the case of those marriages and the case of these chapels. The Irish Presbyterians have gone on marrying according to their own forms during a long course of years. The Unitarians have gone on occupying, improving, embellishing certain property during a long course of years. In neither case did any doubt as to the right arise in the most honest, in the most scrupulous mind. At length, about the same time, both the validity of the Presbyterian marriages and the validity of the title by which the Unitarians held their chapels were disputed. The two questions came before the tribunals. The tribunals, with great reluctance, with great pain, pronounced that, neither in the case of the marriages nor in the case of the chapels, can prescription be set up against the letter of the law. In both cases there is a just claim to relief such as the legislature alone can afford. In both the legislature is willing to grant that relief. But this will not satisfy the orthodox Presbyterian. He demands with equal vehemence two things, — that he shall be relieved, and that nobody else shall be relieved. In the same breath he tells us that it would be most iniquitous not to pass a retrospective law for his benefit, and that it would be most iniquitous to pass a retrospective law for the benefit of his fellow sufferers. I never was more amused than by reading, the other day, a speech made by a person of great note among the Irish Presbyterians on the sub-

ject of these marriages. "Is it to be endured," he says, "that the mummies of old and forgotten laws are to be dug up and unswathed for the annoyance of dissenters?" And yet a few hours later, this eloquent orator is himself hard at work in digging up and unswathing another set of mummies for the annoyance of another set of dissenters. I should like to know how he and such as he would look if we Churchmen were to assume the same tone towards them which they think it becoming to assume towards the Unitarian body; if we were to say, "You and those whom you would oppress are alike out of our pale. If they are heretics in your opinion, you are schismatics in ours. Since you insist on the letter of the law against them, we will insist on the letter of the law against you. You object to *ex post facto* statutes; and you shall have none. You think it reasonable that men should, in spite of a prescription of eighty or ninety years, be turned out of a chapel built with their own money, and a cemetery where their own kindred lie, because the original title was not strictly legal. We think it equally reasonable that those contracts which you have imagined to be marriages, but which are now adjudged not to be legal marriages, should be treated as nullities." I wish from my soul that some of these orthodox dissenters would recollect that the doctrine which they defend with so much zeal against the Unitarians is not the whole sum and substance of Christianity, and that there is a text about doing unto others as you would that they should do unto you.

To any intelligent man who has no object except to do justice, the Trinitarian dissenter and the Unitarian dissenter who are now asking us for relief will appear

to have exactly the same right to it. There is, however, I must own, one distinction between the two cases. The Trinitarian dissenters are a strong body, and especially strong among the electors of towns. They are of great weight in the State. Some of us may probably, by voting to-night against their wishes, endanger our seats in this House. The Unitarians, on the other hand, are few in number. Their creed is unpopular. Their friendship is likely to injure a public man more than their enmity. If therefore there be among us any person of a nature at once tyrannical and cowardly, any person who delights in persecution, but is restrained by fear from persecuting powerful sects, now is his time. He never can have a better opportunity of gratifying his malevolence without risk of retribution. But, for my part, I long ago espoused the cause of religious liberty, not because that cause was popular, but because it was just; and I am not disposed to abandon the principles to which I have been true through my whole life in deference to a passing clamour. The day may come, and may come soon, when those who are now loudest in raising that clamour may again be, as they have formerly been, suppliants for justice. When that day comes I will try to prevent others from oppressing them, as I now try to prevent them from oppressing others. In the meantime I shall contend against their intolerance with the same spirit with which I may hereafter have to contend for their rights.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 26TH OF FEBRUARY 1845.

On the 26th of February, 1845, on the question that the order of the day for going into Committee of Ways and Means should be read, Lord John Russell moved the following amendment. —

"That it is the opinion of this House that the plan proposed by Her Majesty's Government, in reference to the Sugar Duties, professes to keep up a distinction between foreign free labour sugar and foreign slave labour sugar, which is impracticable and illusory; and, without adequate benefit to the consumer, tends so greatly to impair the revenue as to render the removal of the Income and Property Tax at the end of three years extremely uncertain and improbable."

The amendment was rejected by 236 votes to 142. In the debate the following Speech was made: —

Sir, if the question now at issue were merely a financial or a commercial question, I should be unwilling to offer myself to your notice: for I am well aware that there are, both on your right and on your left hand, many gentlemen far more deeply versed in financial and commercial science than myself; and I should think that I discharged my duty better by listening to them than by assuming the office of a teacher. But, Sir, the question on which we are at issue with Her Majesty's Ministers is neither a financial nor a commercial question. I do not understand it to be disputed that, if we were to pronounce our decision with reference merely to fiscal and mercantile considerations, we should at once adopt the plan rec-

ommended by my noble friend. Indeed the right honourable gentleman, the late President of the Board of Trade,[1] has distinctly admitted this. He says that the Ministers of the Crown call upon us to sacrifice great pecuniary advantages and great commercial facilities, for the purpose of maintaining a moral principle. Neither in any former debate nor in the debate of this night has any person ventured to deny that, both as respects the public purse and as respects the interests of trade, the course recommended by my noble friend is preferable to the course recommended by the Government.

The objections to my noble friend's amendment, then, are purely moral objections. We lie, it seems, under a moral obligation to make a distinction between the produce of free labour and the produce of slave labour. Now I should be very unwilling to incur the imputation of being indifferent to moral obligations. I do, however, think that it is in my power to show strong reasons for believing that the moral obligation pleaded by the Ministers has no existence. If there be no such moral obligation, then, as it is conceded on the other side that all fiscal and commercial arguments are on the side of my noble friend, it follows that we ought to adopt his amendment.

The right honourable gentleman, the late President of the Board of Trade, has said that the Government does not pretend to act with perfect consistency as to this distinction between free labour and slave labour. It was, indeed, necessary that he should say this; for the policy of the Government is obviously most inconsistent. Perfect consistency, I admit, we are not to expect in human affairs. But, surely, there is a de-

[1] Mr. Gladstone.

cent consistency which ought to be observed; and of this the right honourable gentleman himself seems to be sensible; for he asks how, if we admit sugar grown by Brazilian slaves, we can with decency continue to stop Brazilian vessels engaged in the slave trade. This argument, whatever be its value, proceeds on the very correct supposition that the test of sincerity in individuals, in parties, and in governments, is consistency. The right honourable gentleman feels, as we must all feel, that it is impossible to give credit for good faith to a man who on one occasion pleads a scruple of conscience as an excuse for not doing a certain thing, and who on other occasions, where there is no essential difference of circumstances, does that very thing without any scruple at all. I do not wish to use such a word as hypocrisy, or to impute that odious vice to any gentleman on either side of the House. But whoever declares one moment that he feels himself bound by a certain moral rule, and the next moment, in a case strictly similar, acts in direct defiance of that rule, must submit to have, if not his honesty, yet at least his power of discriminating right from wrong very gravely questioned.

Now, Sir, I deny the existence of the moral obligation pleaded by the Government. I deny that we are under any moral obligation to turn our fiscal code into a penal code, for the purpose of correcting vices in the institutions of independent states. I say that, if you suppose such a moral obligation to be in force, the supposition leads to consequences from which every one of us would recoil, to consequences which would throw the whole commercial and political system of the world into confusion. I say that, if such a moral obligation exists, our financial legislation is one mass of injustice

and inhumanity. And I say more especially that, if such a moral obligation exists, the right honourable Baronet's Budget is one mass of injustice and inhumanity.

Observe, I am not disputing the paramount authority of moral obligation. I am not setting up pecuniary considerations against moral considerations. I know that it would be not only a wicked but a short-sighted policy, to aim at making a nation like this great and prosperous by violating the laws of justice. To those laws, enjoin what they may, I am prepared to submit. But I will not palter with them; I will not cite them to-day in order to serve one turn, and quibble them away to-morrow in order to serve another. I will not have two standards of right: one to be applied when I wish to protect a favourite interest at the public cost; and another to be applied when I wish to replenish the Exchequer, and to give an impulse to trade. I will not have two weights or two measures. I will not blow hot and cold, play fast and loose, strain at a gnat and swallow a camel. Can the Government say as much? Are gentlemen opposite prepared to act in conformity with their own principle? They need not look long for opportunities. The Statute Book swarms with enactments directly opposed to the rule which they profess to respect. I will take a single instance from our existing laws, and propound it to the gentlemen opposite as a test, if I must not say of their sincerity, yet of their power of moral discrimination. Take the article of tobacco. Not only do you admit the tobacco of the United States, which is grown by slaves; not only do you admit the tobacco of Cuba which is grown by slaves, and by slaves, as you tell us, recently imported from Africa; but you actually inter-

dict the free labourer of the United Kingdom from growing tobacco. You have long had in your Statute Book laws prohibiting the cultivation of tobacco in England, and authorising the Government to destroy all tobacco plantations, except a few square yards, which are suffered to exist unmolested in botanical gardens, for purposes of science. These laws did not extend to Ireland. The free peasantry of Ireland began to grow tobacco. The cultivation spread fast. Down came your legislation upon it; and now, if the Irish freeman dares to engage in competition with the slaves of Virginia and Havannah, you exchequer him; you ruin him; you grub up his plantation. Here, then, we have a test by which we may try the consistency of the gentlemen opposite. I ask you, are you prepared, I do not say to exclude slave grown tobacco, but to take away from slave grown tobacco the monopoly which you now give to it, and to permit the free labourer of the United Kingdom to enter into competition on equal terms, on any terms, with the negro who works under the lash? I am confident that the three right honourable gentlemen opposite, the First Lord of the Treasury, the Chancellor of the Exchequer, and the late President of the Board of Trade, will all with one voice answer "No." And why not? "Because," say they, "it will injure the revenue. True it is," they will say, "that the tobacco imported from abroad is grown by slaves, and by slaves many of whom have been recently carried across the Atlantic, in defiance not only of justice and humanity, but of law and treaty. True it is that the cultivators of the United Kingdom are freemen. But then on the imported tobacco we are able to raise at the Custom House a duty of six hundred per cent., sometimes

indeed of twelve hundred per cent.: and, if tobacco were grown here, it would be difficult to get an excise duty of even a hundred per cent. We cannot submit to this loss of revenue; and therefore we must give a monopoly to the slaveholder, and make it penal in the freeman to invade that monopoly." You may be right; but, in the name of common sense, be consistent. If this moral obligation of which you talk so much be one which may with propriety yield to fiscal considerations, let us have Brazilian sugars. If it be paramount to all fiscal considerations, let us at least have British snuff and cigars.

The present Ministers may indeed plead that they are not the authors of the laws which prohibit the cultivation of tobacco in Great Britain and Ireland. That is true. The present Government found those laws in existence: and no doubt there is good sense in the Conservative doctrine that many things which ought not to have been set up ought not, when they have been set up, to be hastily and rudely pulled down. But what will the right honourable Baronet urge in vindication of his own new Budget? He is not content with maintaining laws which he finds already existing in favour of produce grown by slaves. He introduces a crowd of new laws to the same effect. He comes down to the House with a proposition for entirely taking away the duties on the importation of raw cotton. He glories in this scheme. He tells us that it is in strict accordance with the soundest principles of legislation. He tells us that it will be a blessing to the country. I agree with him, and I intend to vote with him. But how is all this cotton grown? Is it not grown by slaves? Again I say, you may be right; but, in the name of common sense, be consist-

ent. I saw, with no small amusement, a few days ago, a paragraph by one of the right honourable Baronet's eulogists, which was to the following effect: — "Thus has this eminent statesman given to the English labourer a large supply of a most important raw material, and has manfully withstood those ravenous Whigs who wished to inundate our country with sugar dyed in negro blood." With what, I should like to know, is the right honourable Baronet's cotton dyed?

Formerly, indeed, an attempt was made to distinguish between the cultivation of cotton and the cultivation of sugar. The cultivation of sugar, it was said, was peculiarly fatal to the health and life of the slave. But that plea, whatever it may have been worth, must now be abandoned; for the right honourable Baronet now proposes to reduce, to a very great extent, the duty on slave grown sugar imported from the United States.

Then, a new distinction is set up. The United States, it is said, have slavery; but they have no slave trade. I deny that assertion. I say that the sugar and cotton of the United States are the fruits, not only of slavery, but of the slave trade. And I say further that, if there be on the surface of this earth a country which, before God and man, is more accountable than any other for the misery and degradation of the African race, that country is not Brazil, the produce of which the right honourable Baronet excludes, but the United States, the produce of which he proposes to admit on more favourable terms than ever. I have no pleasure in going into an argument of this nature. I do not conceive that it is the duty of a member of the English Parliament to discuss abuses which exist in other societies. Such discussion seldom tends to pro-

duce any reform of such abuses, and has a direct tendency to wound national pride, and to inflame national animosities. I would willingly avoid this subject: but the right honourable Baronet leaves me no choice. He turns this House into a Court of Judicature for the purpose of criticising and comparing the institutions of independent States. He tells us that our tariff is to be made an instrument for rewarding the justice and humanity of some Foreign Governments, and for punishing the barbarity of others. He binds up the dearest interests of my constituents with questions with which otherwise I should, as a Member of Parliament, have nothing to do. I would gladly keep silence on such questions. But it cannot be. The tradesmen and the professional men whom I represent say to me, "Why are we to be loaded, certainly for some years, probably forever, with a tax, admitted by those who impose it to be grievous, unequal, inquisitorial? Why are we to be loaded in time of peace with burdens heretofore reserved for the exigencies of war?" The paper manufacturer, the soap manufacturer, say, "Why, if the Income Tax is to be continued, are our important and suffering branches of industry to have no relief?" And the answer is, "Because Brazil does not behave so well as the United States towards the negro race." Can I then avoid instituting a comparison? Am I not bound to bring to the test the truth of an assertion pregnant with consequences so momentous to those who have sent me hither? I must speak out; and, if what I say gives offence and produces inconvenience, for that offence and for that inconvenience the Government is responsible.

I affirm, then, that there exists in the United States

a slave trade, not less odious or demoralising, nay, I do in my conscience believe, more odious and more demoralising than that which is carried on between Africa and Brazil. North Carolina and Virginia are to Louisiana and Alabama what Congo is to Rio Janeiro. The slave States of the Union are divided into two classes: the breeding States, where the human beasts of burden increase and multiply and become strong for labour; and the sugar and cotton States, to which those beasts of burden are sent to be worked to death. To what an extent the traffic in man is carried on we may learn by comparing the census of 1830 with the census of 1840. North Carolina and Virginia are, as I have said, great breeding States. During the ten years from 1830 to 1840 the slave population of North Carolina was almost stationary. The slave population of Virginia positively decreased. Yet, both in North Carolina and Virginia propagation was, during those ten years, going on fast. The number of births among the slaves in those States exceeded by hundreds of thousands the number of the deaths. What then became of the surplus? Look to the returns from the Southern States, from the States whose produce the right honourable Baronet proposes to admit with reduced duty or with no duty at all; and you will see. You will find that the increase in the breeding States was barely sufficient to meet the demand of the consuming States. In Louisiana, for example, where we know that the negro population is worn down by cruel toil, and would not, if left to itself, keep up its numbers, there were, in 1830, one hundred and seven thousand slaves; in 1840, one hundred and seventy thousand. In Alabama, the slave population during those ten years

much more than doubled; it rose from one hundred and seventeen thousand to two hundred and fifty-three thousand. In Mississippi it actually tripled. It rose from sixty-five thousand to one hundred and ninety-five thousand. So much for the extent of this slave trade. And as to its nature, ask any Englishman who has ever travelled in the Southern States. Jobbers go about from plantation to plantation looking out for proprietors who are not easy in their circumstances, and who are likely to sell cheap. A black boy is picked up here; a black girl there. The dearest ties of nature and of marriage are torn asunder as rudely as they were ever torn asunder by any slave captain on the coast of Guinea. A gang of three or four hundred negroes is made up; and then these wretches, handcuffed, fettered, guarded by armed men, are driven southward, as you would drive — or rather as you would not drive — a herd of oxen to Smithfield, that they may undergo the deadly labour of the sugar mill near the mouth of the Mississippi. A very few years of that labour in that climate suffice to send the stoutest African to his grave. But he can well be spared. While he is fast sinking into premature old age, negro boys in Virginia are growing up as fast into vigorous manhood to supply the void which cruelty is making in Louisiana. God forbid that I should extenuate the horrors of the slave trade in any form! But I do think this its worst form. Bad enough it is that civilised men should sail to an uncivilised quarter of the world where slavery exists, should there buy wretched barbarians, and should carry them away to labour in a distant land: bad enough! But that a civilised man, a baptized man, a man proud of being a citizen of a free state, a man frequenting a Christian church,

should breed slaves for exportation, and, if the whole horrible truth must be told, should even beget slaves for exportation, should see children, sometimes his own children, gambolling around him from infancy, should watch their growth, should become familiar with their faces, and should then sell them for four or five hundred dollars a head, and send them to lead in a remote country a life which is a lingering death, a life about which the best thing that can be said is that it is sure to be short; this does, I own, excite a horror exceeding even the horror excited by that slave trade which is the curse of the African coast. And mark: I am not speaking of any rare case, of any instance of eccentric depravity. I am speaking of a trade as regular as the trade in pigs between Dublin and Liverpool, or as the trade in coals between the Tyne and the Thames.

There is another point to which I must advert. I have no wish to apologise for slavery as it exists in Brazil; but this I say, that slavery, as it exists in Brazil, though a fearful evil, seems to me a much less hopeless evil than slavery as it exists in the United States. In estimating the character of negro slavery we must never forget one most important ingredient; an ingredient which was wanting to slavery as it was known to the Greeks and Romans; an ingredient which was wanting to slavery as it appeared in Europe during the middle ages; I mean the antipathy of colour. Where this antipathy exists in a high degree, it is difficult to conceive how the white masters and the black labourers can ever be mingled together, as the lords and villeins in many parts of the Old World have been, in one free community. Now this antipathy is notoriously much stronger in the United States than in

the Brazils. In the Brazils the free people of colour are numerous. They are not excluded from honourable callings. You may find among them merchants, physicians, lawyers: many of them bear arms; some have been admitted to holy orders. Whoever knows what dignity, what sanctity, the Church of Rome ascribes to the person of a priest, will at once perceive the important consequences which follow from this last circumstance. It is by no means unusual to see a white penitent kneeling before the spiritual tribunal of a negro, confessing his sins to a negro, receiving absolution from a negro. It is by no means unusual to see a negro dispensing the Eucharist to a circle of whites. I need not tell the House what emotions of amazement and of rage such a spectacle would excite in Georgia or South Carolina. Fully admitting, therefore, as I do, that Brazilian slavery is a horrible evil, I yet must say that, if I were called upon to declare whether I think the chances of the African race on the whole better in Brazil or in the United States, I should at once answer that they are better in Brazil. I think it not improbable that in eighty or a hundred years the black population of Brazil may be free and happy. I see no reasonable prospect of such a change in the United States.

The right honourable gentleman, the late President of the Board of Trade, has said much about that system of maritime police by which we have attempted to sweep slave trading vessels from the great highway of nations. Now what has been the conduct of Brazil, and what has been the conduct of the United States, as respects that system of police? Brazil has come into the system; the United States have thrown every impediment in the way of the system. What opinion

Her Majesty's Ministers entertain respecting the Right of Search we know from a letter of my Lord Aberdeen which has, within a few days, been laid on our table. I believe that I state correctly the sense of that letter when I say that the noble Earl regards the Right of Search as an efficacious means, and as the only efficacious means, of preventing the maritime slave trade. He expresses most serious doubts whether any substitute can be devised. I think that this check would be a most valuable one, if all nations would submit to it; and I applaud the humanity which has induced successive British administrations to exert themselves for the purpose of obtaining the concurrence of foreign powers in so excellent a plan. Brazil consented to admit the Right of Search; the United States refused, and by refusing deprived the Right of Search of half its value. Not content with refusing to admit the Right of Search, they even disputed the right of visit, a right which no impartial publicist in Europe will deny to be in strict conformity with the Law of Nations. Nor was this all. In every part of the Continent of Europe the diplomatic agents of the Cabinet of Washington have toiled to induce other nations to imitate the example of the United States. You cannot have forgotten General Cass's letter. You cannot have forgotten the terms in which his Government communicated to him its approbation of his conduct. You know as well as I do that, if the United States had submitted to the Right of Search, there would have been no outcry against that right in France. Nor do I much blame the French. It is but natural that, when one maritime Power makes it a point of honour to refuse us this right, other maritime Powers should think that they cannot, without degradation, take

a different course. It is but natural that a Frenchman, proud of his country, should ask why the tricolor is to be less respected than the Stars and Stripes. The right honourable gentleman says that, if we assent to my noble friend's amendment, we shall no longer be able to maintain the Right of Search. Sir, he need not trouble himself about that right. It is already gone. We have agreed to negotiate on the subject with France. Everybody knows how that negotiation will end. The French flag will be exempted from search: Spain will instantly demand, if she has not already demanded, similar exemption; and you may as well let her have it with a good grace, and without wrangling. For a Right of Search, from which the flags of France and America are exempted, is not worth a dispute. The only system, therefore, which, in the opinion of Her Majesty's Ministers, has yet been found efficacious for the prevention of the maritime slave trade, is in fact abandoned. And who is answerable for this? The United States of America. The chief guilt even of the slave trade between Africa and Brazil lies, not with the Government of Brazil, but with that of the United States. And yet the right honourable Baronet proposes to punish Brazil for the slave trade, and in the same breath proposes to show favour to the United States, because the United States are pure from the crime of slave trading. I thank the right honourable gentleman, the late President of the Board of Trade, for reminding me of Mr. Calhoun's letter. I could not have wished for a better illustration of my argument. Let anybody who has read that letter say what is the country which, if we take on ourselves to avenge the wrongs of Africa, ought to be the first object of our indignation. The Government of the United States

has placed itself on a bad eminence to which Brazil never aspired, and which Brazil, even if aspiring to it, never could attain. The Government of the United States has formally declared itself the patron, the champion of negro slavery all over the world, the evil genius, the Arimanes of the African race, and seems to take pride in this shameful and odious distinction. I well understand that an American statesman may say, "Slavery is a horrible evil; but we were born to it; we see no way at present to rid ourselves of it: and we must endure it as we best may." Good and enlightened men may hold such language; but such is not the language of the American Cabinet. That Cabinet is actuated by a propagandist spirit, and labours to spread servitude and barbarism with an ardour such as no other Government ever showed in the cause of freedom and civilisation. Nay more; the doctrine held at Washington is that this holy cause sanctifies the most unholy means. These zealots of slavery think themselves justified in snatching away provinces on the right hand and on the left, in defiance of public faith and international law, from neighbouring countries which have free institutions, and this avowedly for the purpose of diffusing over a wider space the greatest curse that afflicts humanity. They put themselves at the head of the slavedriving interest throughout the world, just as Elizabeth put herself at the head of the Protestant interest; and wherever their favourite institution is in danger, are ready to stand by it as Elizabeth stood by the Dutch. This, then, I hold to be demonstrated, that of all societies now existing, the Republic of the United States is by far the most culpable as respects slavery and the slave trade.

Now then I come to the right honourable Baronet's Budget. He tells us, that he will not admit Brazilian sugar, because the Brazilian Government tolerates slavery and connives at the slave trade; and he tells us at the same time, that he will admit the slave grown cotton and the slave grown sugar of the United States. I am utterly at a loss to understand how he can vindicate his consistency. He tells us that if we adopt my noble friend's proposition, we shall give a stimulus to the slave trade between Africa and Brazil. Be it so. But is it not equally clear that, if we adopt the right honourable Baronet's own propositions, we shall give a stimulus to the slave trade between Virginia and Louisiana? I have not the least doubt that, as soon as the contents of his Budget are known on the other side of the Atlantic, the slave trade will become more active than it is at this moment; that the jobbers in human flesh and blood will be more busy than ever; that the droves of manacled negroes, moving southward to their doom, will be more numerous on every road. These will be the fruits of the right honourable Baronet's measure. Yet he tells us that this part of his Budget is framed on sound principles, and will greatly benefit the country; and he tells us truth. I mean to vote with him; and I can perfectly, on my own principles, reconcile to my conscience the vote which I shall give. How the right honourable Baronet can reconcile the course which he takes to his conscience, I am at a loss to conceive, and am not a little curious to know. No man is more capable than he of doing justice to any cause which he undertakes; and it would be most presumptuous in me to anticipate the defence which he means to set up. But I hope that the House will suffer me, as one who feels deeply

on this subject, now to explain the reasons which convince me that I ought to vote for the right honourable Baronet's propositions respecting the produce of the United States. In explaining those reasons, I at the same time explain the reasons which induce me to vote with my noble friend to-night.

I say then, Sir, that I fully admit the paramount authority of moral obligations. But it is important that we should accurately understand the nature and extent of those obligations. We are clearly bound to wrong no man. Nay, more, we are bound to regard all men with benevolence. But to every individual, and to every society, Providence has assigned a sphere within which benevolence ought to be peculiarly active; and if an individual or a society neglects what lies within that sphere in order to attend to what lies without, the result is likely to be harm and not good.

It is thus in private life. We should not be justified in injuring a stranger in order to benefit ourselves or those who are dearest to us. Every stranger is entitled, by the laws of humanity, to claim from us certain reasonable good offices. But it is not true that we are bound to exert ourselves to serve a mere stranger as we are bound to exert ourselves to serve our own relations. A man would not be justified in subjecting his wife and children to disagreeable privations in order to save even from utter ruin some foreigner whom he never saw. And if a man were so absurd and perverse as to starve his own family in order to relieve people with whom he had no acquaintance, there can be little doubt that his crazy charity would produce much more misery than happiness.

It is the same with nations. No statesman ought to

injure other countries in order to benefit his own country. No statesman ought to lose any fair opportunity of rendering to foreign nations such good offices as he can render without a breach of the duty which he owes to the society of which he is a member. But, after all, our country is our country, and has the first claim on our attention. There is nothing, I conceive, of narrow-mindedness in this patriotism. I do not say that we ought to prefer the happiness of one particular society to the happiness of mankind; but I say that, by exerting ourselves to promote the happiness of the society with which we are most nearly connected, and with which we are best acquainted, we shall do more to promote the happiness of mankind than by busying ourselves about matters which we do not fully understand, and cannot efficiently control.

There are great evils connected with the factory system in this country. Some of those evils might, I am inclined to think, be removed or mitigated by legislation. On that point many of my friends differ from me; but we all agree in thinking that it is the duty of a British Legislator to consider the subject attentively, and with a serious sense of responsibility. There are also great social evils in Russia. The peasants of that empire are in a state of servitude. The sovereign of Russia is bound by the most solemn obligations to consider whether he can do anything to improve the condition of that large portion of his subjects. If we watch over our factory children, and he watches over his peasants, much good may be done. But would any good be done if the Emperor of Russia and the British Parliament were to interchange functions: if he were to take under his patronage the weavers of Lancashire, if we were to take under our patronage

the peasants of the Volga; if he were to say, "You shall send no cotton to Russia till you pass a Ten Hours' Bill;" if we were to say, "You shall send no hemp or tallow to England till you emancipate your serfs?"

On these principles, Sir, which seem to me to be the principles of plain common sense, I can, without resorting to any casuistical subtilties, vindicate to my own conscience, and, I hope, to my country, the whole course which I have pursued with respect to slavery. When I first came into Parliament, slavery still existed in the British dominions. I had, as it was natural that I should have, a strong feeling on the subject. I exerted myself, according to my station and to the measure of my abilities, on the side of the oppressed. I shrank from no personal sacrifice in that cause. I do not mention this as matter of boast. It was no more than my duty. The right honourable gentleman, the Secretary of State for the Home Department, knows that, in 1833, I disapproved of one part of the measure which Lord Grey's government proposed on the subject of slavery. I was in office; and office was then as important to me as it could be to any man. I put my resignation into the hands of Lord Spencer, and both spoke and voted against the Administration. To my surprise, Lord Grey and Lord Spencer refused to accept my resignation, and I remained in office; but during some days I considered myself as out of the service of the Crown. I at the same time heartily joined in laying a heavy burden on the country for the purpose of compensating the planters. I acted thus, because, being a British Legislator, I thought myself bound, at any cost to myself and to my constituents, to remove a foul stain from the British laws, and to re-

dress the wrongs endured by persons who, as British subjects, were placed under my guardianship. But my especial obligations in respect of negro slavery ceased when slavery itself ceased in that part of the world for the welfare of which I, as a Member of this House, was accountable. As for the blacks in the United States, I feel for them, God knows. But I am not their keeper. I do not stand in the same relation to the slaves of Louisiana and Alabama in which I formerly stood to the slaves of Demerara and Jamaica. I am bound, on the other hand, by the most solemn obligations, to promote the interests of millions of my own countrymen, who are indeed by no means in a state so miserable and degraded as that of the slaves in the United States, but who are toiling hard from sunrise to sunset in order to obtain a scanty subsistence; who are often scarcely able to procure the necessaries of life; and whose lot would be alleviated if I could open new markets to them, and free them from taxes which now press heavily on their industry. I see clearly that, by excluding the produce of slave labour from our ports, I should inflict great evil on my fellow subjects and constituents. But the good which, by taking such a course, I should do to the negroes in the United States seems to me very problematical. That by admitting slave grown cotton and slave grown sugar we do, in some sense, encourage slavery and the Slave Trade, may be true. But I doubt whether, by turning our fiscal code into a penal code for restraining the cruelty of the American planters, we should not, on the whole, injure the negroes rather than benefit them. No independent nation will endure to be told by another nation, "We are more virtuous than you; we have sate in judgment on your institutions; we

find them to be bad; and, as a punishment for your offences, we condemn you to pay higher duties at our Custom House than we demand from the rest of the world." Such language naturally excites the resentment of foreigners. I can make allowance for their susceptibility. For I myself sympathise with them. I know that Ireland has been misgoverned; and I have done, and purpose to do, my best to redress her grievances. But when I take up a New York journal, and read there the rants of President Tyler's son, I feel so much disgusted by such insolent absurdity that I am for a moment inclined to deny that Ireland has any reason whatever to complain. It seems to me that, if ever slavery is peaceably extinguished in the United States, that great and happy change must be brought about by the efforts of those enlightened and respectable American citizens who hate slavery as much as we hate it. Now I cannot help fearing that, if the British Parliament were to proclaim itself the protector and avenger of the American slave, the pride of those excellent persons would take the alarm. It might become a point of national honour with them to stand by an institution which they have hitherto regarded as a national disgrace. We should thus confer no benefit on the negro; and we should at the same time inflict cruel suffering on our own countrymen.

On these grounds, Sir, I can, with a clear conscience, vote for the right honourable Baronet's propositions respecting the cotton and sugar of the United States. But on exactly the same grounds I can, with a clear conscience, vote for the amendment of my noble friend. And I confess that I shall be much surprised if the right honourable Baronet shall be able to point out any distinction between the cases.

I have detained you too long, Sir: yet there is one point to which I must refer; I mean the refining. Was such a distinction ever heard of? Is there anything like it in all Pascal's Dialogues with the old Jesuit? Not for the world are we to eat one ounce of Brazilian sugar. But we import the accursed thing; we bond it; we employ our skill and machinery to render it more alluring to the eye and to the palate; we export it to Leghorn and Hamburg; we send it to all the coffee houses of Italy and Germany; we pocket a profit on all this; and then we put on a Pharisaical air, and thank God that we are not like those wicked Italians and Germans who have no scruple about swallowing slave grown sugar. Surely this sophistry is worthy only of the worst class of false witnesses. "I perjure myself! Not for the world. I only kissed my thumb; I did not put my lips to the calf-skin." I remember something very like the right honourable Baronet's morality in a Spanish novel which I read long ago. I beg pardon of the House for detaining them with such a trifle; but the story is much to the purpose. A wandering lad, a sort of Gil Blas, is taken into the service of a rich old silversmith, a most pious man, who is always telling his beads, who hears mass daily, and observes the feasts and fasts of the church with the utmost scrupulosity. The silversmith is alway preaching honesty and piety. "Never," he constantly repeats to his young assistant, "never touch what is not your own; never take liberties with sacred things." Sacrilege, as uniting theft with profaneness, is the sin of which he has the deepest horror. One day, while he is lecturing after his usual fashion, an ill-looking fellow comes into the shop with a sack under his arm. "Will you buy these?" says the visitor, and produces from

the sack some church plate and a rich silver crucifix. "Buy them!" cries the pious man. "No, nor touch them; not for the world. I know where you got them. Wretch that you are, have you no care for your soul?" "Well, then," says the thief, "if you will not buy them, will you melt them down for me?" "Melt them down!" answers the silversmith; "that is quite another matter." He takes the chalices and the crucifix with a pair of tongs; the silver, thus in bond, is dropped into the crucible, melted, and delivered to the thief, who lays down five pistoles and decamps with his booty. The young servant stares at this strange scene. But the master very gravely resumes his lecture. "My son," he says, "take warning by that sacrilegious knave, and take example by me. Think what a load of guilt lies on his conscience. You will see him hanged before long. But as to me, you saw that I would not touch the stolen property. I keep these tongs for such occasions. And thus I thrive in the fear of God, and manage to turn an honest penny." You talk of morality. What can be more immoral than to bring ridicule on the very name of morality, by drawing distinctions where there are no differences? Is it not enough that this dishonest casuistry has already poisoned our theology? Is it not enough that a set of quibbles has been devised, under cover of which a divine may hold the worst doctrines of the Church of Rome, and may hold with them the best benefice of the Church of England? Let us at least keep the debates of this House free from the sophistry of Tract Number Ninety.

And then the right honourable gentleman, the late President of the Board of Trade, wonders that other nations consider our abhorrence of slavery and the

slave trade as sheer hypocrisy. Why, Sir, how should it be otherwise? And, if the imputation annoys us, whom have we to thank for it? Numerous and malevolent as our detractors are, none of them was ever so absurd as to charge us with hypocrisy because we took slave grown tobacco and slave grown cotton, till the Government began to affect scruples about admitting slave grown sugar. Of course, as soon as our Ministers ostentatiously announced to all the world that our fiscal system was framed on a new and sublime moral principle, everybody began to inquire whether we consistently adhered to that principle. It required much less acuteness and much less malevolence than that of our neighbours to discover that this hatred of slave grown produce was mere grimace. They see that we not only take tobacco produced by means of slavery and of the slave trade, but that we positively interdict freemen in this country from growing tobacco. They see that we not only take cotton produced by means of slavery and of the slave trade, but that we are about to exempt this cotton from all duty. They see that we are at this moment reducing the duty on the slave grown sugar of Louisiana. How can we expect them to believe that it is from a sense of justice and humanity that we lay a prohibitory duty on the sugar of Brazil? I care little for the abuse which any foreign press or any foreign tribune may throw on the Machiavellian policy of perfidious Albion. What gives me pain is, not that the charge of hypocrisy is made, but that I am unable to see how it is to be refuted.

Yet one word more. The right honourable gentleman, the late President of the Board of Trade, has quoted the opinions of two persons, highly distinguished

by the exertions which they made for the abolition of slavery, my lamented friend, Sir Thomas Fowell Buxton, and Dr. Lushington. It is most true that those eminent persons did approve of the principle laid down by the right honourable Baronet opposite in 1841. I think that they were in error; but in their error I am sure that they were sincere, and I firmly believe that they would have been consistent. They would have objected, no doubt, to my noble friend's amendment; but they would have objected equally to the right honourable Baronet's Budget. It was not prudent, I think, in gentlemen opposite to allude to those respectable names. The mention of those names irresistibly carries the mind back to the days of the great struggle for negro freedom. And it is but natural that we should ask where, during that struggle, were those who now profess such loathing for slave grown sugar? The three persons who are chiefly responsible for the financial and commercial policy of the present Government I take to be the right honourable Baronet at the head of the Treasury, the right honourable gentleman the Chancellor of the Exchequer, and the right honourable gentleman the late President of the Board of Trade. Is there anything in the past conduct of any one of the three which can lead me to believe that his sensibility to the evils of slavery is greater than mine? I am sure that the right honourable Baronet, the First Lord of the Treasury, would think that I was speaking ironically if I were to compliment him on his zeal for the liberty of the negro race. Never once, during the whole of the long and obstinate conflict which ended in the abolition of slavery in our colonies, did he give one word, one sign, of encouragement to those who suffered and laboured for the good cause. The whole

weight of his great abilities and influence was in the other scale. I well remember that, so late as 1833, he declared in this House that he could give his assent neither to the plan of immediate emancipation proposed by my noble friend who now represents Sunderland,[1] nor to the plan of gradual emancipation proposed by Lord Grey's Government. I well remember that he said, "I shall claim no credit hereafter on account of this bill: all that I desire is to be absolved from the responsibility." As to the other two right honourable gentlemen whom I have mentioned, they are West Indians; and their conduct was that of West Indians. I do not wish to give them pain, or to throw any disgraceful imputation on them. Personally I regard them with feelings of goodwill and respect. I do not question their sincerity; but I know that the most honest men are but too prone to deceive themselves into the belief that the path towards which they are impelled by their own interests and passions is the path of duty. I am conscious that this might be my own case; and I believe it to be theirs. As the right honourable gentleman, the Chancellor of the Exchequer, has left the House, I will only say that, with respect to the question of slavery, he acted after the fashion of the class to which he belonged. But as the right honourable gentleman, the late President of the Board of Trade, is in his place, he must allow me to bring to his recollection the part which he took in the debates of 1833. He then said, "You raise a great clamour about the cultivation of sugar. You say that it is a species of industry fatal to the health and life of the slave. I do not deny that there is some difference between the labour of a sugar plantation and the la-

[1] Lord Howick.

bour of a cotton plantation, or a coffee plantation. But the difference is not so great as you think. In marshy soils, the slaves who cultivate the sugar cane suffer severely. But in Barbadoes, where the air is good, they thrive and multiply." He proceeded to say that, even at the worst, the labour of a sugar plantation was not more unhealthy than some kinds of labour in which the manufacturers of England are employed, and which nobody thinks of prohibiting. He particularly mentioned grinding. "See how grinding destroys the health, the sight, the life. Yet there is no outcry against grinding." He went on to say that the whole question ought to be left by Parliament to the West Indian Legislatures.

Mr. GLADSTONE. Really I never said so. You are not quoting me at all correctly.

What, not about the sugar cultivation and the grinding?

Mr. GLADSTONE. That is correct; but I never recommended that the question should be left to the West Indian Legislatures.

I have quoted correctly. But since my right honourable friend disclaims the sentiment imputed to him by the reporters, I shall say no more about it. I have no doubt that he is quite right, and that what he said was misunderstood. What is undisputed is amply sufficient for my purpose. I see that the persons who now show so much zeal against slavery in foreign countries are the same persons who formerly countenanced slavery in the British Colonies. I remember a time when they maintained that we were bound in justice to protect slave grown sugar against the competition of free grown sugar, and even of British free grown

sugar. I now hear them calling on us to protect free grown sugar against the competition of slave grown sugar. I remember a time when they extenuated as much as they could the evils of the sugar cultivation. I now hear them exaggerating those evils. But, devious as their course has been, there is one clue by which I can easily track them through the whole maze. Inconstant in everything else, they are constant in demanding protection for the West Indian planter. While he employs slaves, they do their best to apologise for the evils of slavery. As soon as he is forced to employ freemen, they begin to cry up the blessings of freedom. They go round the whole compass, and yet to one point they steadfastly adhere; and that point is the interest of the West Indian proprietors. I have done, Sir; and I thank the House most sincerely for the patience and indulgence with which I have been heard. I hope that I have at least vindicated my own consistency. How Her Majesty's Ministers will vindicate their consistency, how they will show that their conduct has at all times been guided by the same principles, or even that their conduct at the present time is guided by any fixed principle at all, I am unable to conjecture.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 14TH OF APRIL, 1845.

On Saturday the eleventh of April, 1845, Sir Robert Peel moved the second reading of the Maynooth College Bill. After a debate of six nights the motion was carried by 323 votes to 176. On the second night the following Speech was made: —

I DO not mean, Sir, to follow the honourable gentleman who has just sate down into a discussion on an amendment which is not now before us. When my honourable friend, the Member for Sheffield, shall think it expedient to make a motion on that important subject to which he has repeatedly called the attention of the House, I may, perhaps, ask to be heard. At present I shall content myself with explaining the reasons which convince me that it is my duty to vote for the second reading of this bill; and I cannot, I think, better explain those reasons than by passing in review, as rapidly as I can, the chief objections which have been made to the bill here and elsewhere.

The objectors, Sir, may be divided into three classes. The first class consists of those persons who object, not to the principle of the grant to Maynooth College, but merely to the amount. The second class consists of persons who object on principle to all grants made to a church which they regard as corrupt. The third class consists of persons who object on principle to all grants made to churches, whether corrupt or pure.

Now, Sir, of these three classes, the first is evidently

that which takes the most untenable ground. How any person can think that Maynooth College ought to be supported by public money, and yet can think this bill too bad to be suffered to go into Committee, I do not well understand. I am forced however to believe that there are many such persons. For I cannot but remember that the old annual vote attracted scarcely any notice; and I see that this bill has produced violent excitement. I cannot but remember that the old annual vote used to pass with very few dissentients; and I see that great numbers of gentlemen, who never were among those dissentients, have crowded down to the House in order to divide against this bill. It is indeed certain that a large proportion, I believe a majority, of those members who cannot, as they assure us, conscientiously support the plan proposed by the right honourable Baronet at the head of the Government, would without the smallest scruple have supported him if he had in this, as in former years, asked us to give nine thousand pounds for twelve months. So it is: yet I cannot help wondering that it should be so. For how can any human ingenuity turn a question between nine thousands pounds and twenty-six thousand pounds, or between twelve months and an indefinite number of months, into a question of principle. Observe: I am not now answering those who maintain that nothing ought to be given out of the public purse to a corrupt church; nor am I now answering those who maintain that nothing ought to be given out of the public purse to any church whatever. They, I admit, oppose this bill on principle. I perfectly understand, though I do not myself hold, the opinion of the zealous voluntary who says, "Whether the Roman Catholic Church teaches truth or error, she

ought to have no assistance from the State." I also perfectly understand, though I do not myself hold, the opinion of the zealous Protestant who says, "The Roman Catholic Church teaches error, and therefore ought to have no assistance from the State." But I cannot understand the reasoning of the man who says, "In spite of the errors of the Roman Catholic Church, I think that she ought to have some assistance from the State; but I am bound to mark my abhorrence of her errors by doling out to her a miserable pittance. Her tenets are so absurd and noxious that I will pay the professor who teaches them wages less than I should offer to my groom. Her rites are so superstitious that I will take care that they shall be performed in a chapel with a leaky roof and a dirty floor. By all means let us keep her a college, provided only that it be a shabby one. Let us support those who are intended to teach her doctrines and to administer her sacraments to the next generation, provided only that every future priest shall cost us less than a foot soldier. Let us board her young theologians; but let their larder be so scantily supplied that they may be compelled to break up before the regular vacation from mere want of food. Let us lodge them; but let their lodging be one in which they may be packed like pigs in a stye, and be punished for their heterodoxy by feeling the snow and the wind through the broken panes." Is it possible to conceive anything more absurd or more disgraceful? Can anything be clearer than this, that whatever it is lawful to do it is lawful to do well. If it be right that we should keep up this college at all, it must be right that we should keep it up respectably. Our national dignity is concerned. For this institution, whether good or bad, is, beyond

all dispute, a very important institution. Its office is to form the character of those who are to form the character of millions. Whether we ought to extend any patronage to such an institution is a question about which wise and honest men may differ. But that, if we do extend our patronage to such an institution, our patronage ought to be worthy of the object, and worthy of the greatness of our country, is a proposition from which I am astonished to hear any person dissent.

It is, I must say, with a peculiarly bad grace that one of the Members for the University to which I have the honour to belong,[1] a gentleman who never thought himself bound to say a word or to give a vote against the grant of nine thousand pounds, now vehemently opposes the grant of twenty-six thousand pounds as exorbitant. When I consider how munificently the colleges of Cambridge and Oxford are endowed, and with what pomp religion and learning are there surrounded; when I call to mind the long streets of palaces, the towers and oriels, the venerable cloisters, the trim gardens, the organs, the altar pieces, the solemn light of the stained windows, the libraries, the museums, the galleries of painting and sculpture; when I call to mind also the physical comforts which are provided both for instructors and for pupils; when I reflect that the very sizars and servitors are far better lodged and fed than those students who are to be, a few years hence, the priests and bishops of the Irish people; when I think of the spacious and stately mansions of the heads of houses, of the commodious chambers of the fellows and scholars, of the refectories, the combination rooms, the bowling greens, the stabling, of the state and luxury of the great feast days, of

[1] The Honourable Charles Law, Member for the University of Cambridge.

the piles of old plate on the tables, of the savoury steam of the kitchens, of the multitudes of geese and capons which turn at once on the spits, of the oceans of excellent ale in the butteries; and when I remember from whom all this splendour and plenty is derived; when I remember what was the faith of Edward the Third and of Henry the Sixth, of Margaret of Anjou and Margaret of Richmond, of William of Wykeham and William of Waynefleet, of Archbishop Chicheley and Cardinal Wolsey; when I remember what we have taken from the Roman Catholics, — King's College, New College, Christ Church, my own Trinity; and when I look at the miserable Dotheboys Hall which we have given them in exchange, I feel, I must own, less proud than I could wish of being a Protestant and a Cambridge man.

Some gentlemen, it is true, have made an attempt to show that there is a distinction of principle between the old grant which they have always supported and the larger grant which they are determined to oppose. But never was attempt more unsuccessful. They say that, at the time of the Union, we entered into an implied contract with Ireland to keep up this college. We are therefore,-they argue, bound by public faith to continue the old grant; but we are not bound to make any addition to that grant. Now, Sir, on this point, though on no other, I do most cordially agree with those petitioners who have, on this occasion. covered your table with such huge bales of spoiled paper and parchment. I deny the existence of any such contract. I think myself perfectly free to vote for the abolition of this college, if I am satisfied that it is a pernicious institution; as free as I am to vote against any item of the ordnance estimates; as free as

I am to vote for a reduction of the number of marines. It is strange, too, that those who appeal to this imaginary contract should not perceive that, even if their fiction be admitted as true, it will by no means get them out of their difficulty. Tell us plainly what are the precise terms of the contract which you suppose Great Britain to have made with Ireland about this college. Whatever the terms be, they will not serve your purpose. Was the contract this, — that the Imperial Parliament would do for the college what the Irish Parliament had been used to do? Or was the contract this, — that the Imperial Parliament would keep the college in a respectable and efficient state? If the former was the contract, nine thousand pounds would be too much. If the latter was the contract, you will not, I am confident, be able to prove that twenty-six thousand pounds is too little.

I have now, I think, said quite as much as need be said in answer to those who maintain that we ought to give support to this college, but that the support ought to be niggardly and precarious. I now come to another and a much more formidable class of objectors. Their objections may be simply stated thus. No man can justifiably, either as an individual or as a trustee for the public, contribute to the dissemination of religious error. But the Church of Rome teaches religious error. Therefore we cannot justifiably contribute to the support of an institution of which the object is the dissemination of the doctrines of the Church of Rome. Now, Sir, I deny the major of this syllogism. I think that there are occasions on which we are bound to contribute to the dissemination of doctrines with which errors are inseparably intermingled. Let me be clearly understood. The question is

not whether we should teach truth or teach error, but whether we should teach truth adulterated with error, or teach no truth at all. The constitution of the human mind is such that it is impossible to provide any machinery for the dissemination of truth which shall not, with the truth, disseminate some error. Even those rays which come down to us from the great source of light, pure as they are in themselves, no sooner enter that gross and dark atmosphere in which we dwell than they are so much refracted, discoloured, and obscured, that they too often lead us astray. It will be generally admitted that, if religious truth can be anywhere found untainted by error, it is in the Scriptures. Yet is there actually on the face of the globe a single copy of the Scriptures of which it can be said that it contains truth absolutely untainted with error? Is there any manuscript, any edition of the Old or New Testament in the original tongues, which any scholar will pronounce faultless? But to the vast majority of Christians the original tongues are and always must be unintelligible. With the exception of perhaps one man in ten thousand, we must be content with translations. And is there any translation in which there are not numerous mistakes? Are there not numerous mistakes even in our own authorised version, executed as that version was with painful diligence and care, by very able men, and under very splendid patronage? Of course mistakes must be still more numerous in those translations which pious men have lately made into Bengalee, Hindostanee, Tamul, Canarese, and other Oriental tongues. I admire the zeal, the industry, the energy of those who, in spite of difficulties which to ordinary minds would seem insurmountable, accomplished that arduous work. I

applaud those benevolent societies which munificently encouraged that work. But I have been assured by good judges that the translations have many faults. And how should it have been otherwise? How should an Englishman produce a faultless translation from the Hebrew into the Cingalese? I say, therefore, that even the Scriptures, in every form in which men actually possess them, contain a certain portion of error. And, if this be so, how can you look for pure undefecated truth in any other composition? You contribute, without any scruple, to the printing of religious tracts, to the establishing of Sunday Schools, to the sending forth of missionaries. But are your tracts perfect? Are your schoolmasters infallible? Are your missionaries inspired? Look at the two churches which are established in this island. Will you say that they both teach truth without any mixture of error? That is impossible. For they teach different doctrines on more than one important subject. It is plain, therefore, that if, as you tell us, it be a sin in a state to patronise an institution which teaches religious error, either the Church of England or the Church of Scotland ought to be abolished. But will anybody even venture to affirm that either of those churches teaches truth without any mixture of error? Have there not long been in the Church of Scotland two very different schools of theology? During many years, Dr. Robertson, the head of the moderate party, and Dr. Erskine, the head of the Calvinistic party, preached under the same roof, one in the morning, the other in the evening. They preached two different religions, so different that the followers of Robertson thought the followers of Erskine fanatics, and the followers of Erskine thought the followers of Robertson

Arians or worse. And is there no mixture of error in the doctrine taught by the clergy of the Church of England? Is not the whole country at this moment convulsed by disputes as to what the doctrine of the Church on some important subjects really is? I shall not take on myself to say who is right and who is wrong. But this I say with confidence, that, whether the Tractarians or the Evangelicals be in the right, many hundreds of those divines who every Sunday occupy the pulpits of our parish churches must be very much in the wrong.

Now, Sir, I see that many highly respectable persons, who think it a sin to contribute to the teaching of error at Maynooth College, think it not merely lawful, but a sacred duty, to contribute to the teaching of error in the other cases which I have mentioned. They know that our version of the Bible contains some error. Yet they subscribe to the Bible Society. They know that the Serampore translations contain a still greater quantity of error. Yet they give largely towards the printing and circulating of those translations. My honourable friend, the Member for the University of Oxford, will not deny that there is among the clergy of the Church of England a Puritan party, and also an Antipuritan party, and that one of these parties must teach some error. Yet he is constantly urging us to grant to this Church an additional endowment of I know not how many hundreds of thousands of pounds. He would doubtless defend himself by saying that nothing on earth is perfect; that the purest religious society must consist of human beings, and must have those defects which arise from human infirmities; and that the truths held by the established clergy, though not altogether unalloyed with error, are

so precious, that it is better that they should be imparted to the people with the alloy than that they should not be imparted at all. Just so say I. I am sorry that we cannot teach pure truth to the Irish people. But I think it better that they should have important and salutary truth, polluted by some error, than that they should remain altogether uninstructed. I heartily wish that they were Protestants. But I had rather that they should be Roman Catholics than that they should have no religion at all. Would you, says one gentleman, teach the people to worship Juggernaut or Kalee? Certainly not. My argument leads to no such conclusion. The worship of Juggernaut and Kalee is a curse to mankind. It is much better that people should be without any religion than that they should believe in a religion which enjoins prostitution, suicide, robbery, assassination. But will any Protestant deny that it is better that the Irish should be Roman Catholics than that they should live and die like the beasts of the field, indulge their appetities without any religious restraint, suffer want and calamity without any religious consolation, and go to their graves without any religious hope? These considerations entirely satisfy my mind. Of course I would not propagate error for its own sake. To do so would be not merely wicked, but diabolical. But, in order that I may be able to propagate truth, I consent to propagate that portion of error which adheres to truth, and which cannot be separated from truth. I wish Christianity to have a great influence on the peasantry of Ireland. I see no probability that Christianity will have that influence except in one form. That form I consider as very corrupt. Nevertheless, the good seems to me greatly to predominate over the evil; and

therefore, being unable to get the good alone, I am content to take the good and the evil together.

I now come to the third class of our opponents. I mean those who take their stand on the voluntary principle. I will not, on this occasion, inquire whether they are right in thinking that governments ought not to contribute to the support of any religion, true or false. For it seems to me that, even if I were to admit that the general rule is correctly laid down by them, the present case would be an exception to that rule. The question on which I am about to vote is not whether the State shall or shall not give any support to religion in Ireland. The State does give such support, and will continue to give such support, whatever may be the issue of this debate. The only point which we have now to decide is whether, while such support is given, it shall be given exclusively to the religion of the minority. Here is an island with a population of near eight millions, and with a wealthy established church, the members of which are little more than eight hundred thousand. There is an archbishop with ten thousand a year. If I recollect rightly, seventy thousand pounds are divided among twelve prelates. At the same time the Protestant dissenters in the north of Ireland receive, in another form, support from the State. But the great majority of the population, the poorest part of the population, the part of the population which is most in need of assistance, the part of the population which holds that faith for the propagation of which the tithes were originally set apart, and the church lands originally given, is left to maintain its own priests. Now is not this a case which stands quite by itself? And may not even those who hold the general proposition, that every man ought to

pay his own spiritual pastor, yet vote, without any inconsistency, for this bill? I was astonished to hear the honourable Member for Shrewsbury [1] tell us that, if we make this grant, it will be impossible for us to resist the claims of any dissenting sect. He particularly mentioned the Wesleyan Methodists. Are the cases analogous? Is there the slightest resemblance between them? Let the honourable gentleman show me that of the sixteen millions of people who inhabit England thirteen millions are Wesleyan Methodists. Let him show me that the members of the Established Church in England are only one tenth of the population. Let him show me that English dissenters who are not Wesleyan Methodists receive a Regium Donum. Let him show me that immense estates bequeathed to John Wesley for the propagation of Methodism have, by Act of Parliament, been taken from the Methodists and given to the Church. If he can show me this, I promise him that, whenever the Wesleyan Methodists shall ask for twenty-six thousand pounds a year to educate their ministers, I shall be prepared to grant their request. But neither the case of the Methodists, nor any other case which can be mentioned, resembles the case with which we have to do. Look round Europe, round the world, for a parallel; and you will look in vain. Indeed the state of things which exists in Ireland never could have existed had not Ireland been closely connected with a country, which possessed a great superiority of power, and which abused that superiority. The burden which we are now, I hope, about to lay on ourselves is but a small penalty for a great injustice. Were I a staunch voluntary, I should still feel that, while the church of eight hundred thou-

[1] Mr. Disraeli.

sand people retains its great endowments, I should not be justified in refusing this small boon to the church of eight millions.

To sum up shortly what I have said: it is clear to me in the first place that, if we have no religious scruple about granting to this College nine thousand pounds for one year, we ought to have no religious scruple about granting twenty-six thousand pounds a year for an indefinite term.

Secondly, it seems to me that those persons who tell us that we ought never in any circumstances to contribute to the propagation of error do in fact lay down a rule which would altogether interdict the propagation of truth.

Thirdly, it seems to me that, even on the hypothesis that the voluntary principle is the sound principle, the present case is an excepted case, to which it would be unjust and unwise to apply that principle.

So much, Sir, as to this bill: and now let me add a few words about those by whom it has been framed and introduced. We were exhorted, on the first night of this debate, to vote against the bill, without inquiring into its merits, on the ground that, good or bad, it was proposed by men who could not honestly and honourably propose it. A similar appeal has been made to us this evening. In these circumstances, Sir, I must, not I hope from party spirit, not, I am sure, from personal animosity, but from a regrad for the public interest, which must be injuriously affected by everything which tends to lower the character of public men, say plainly what I think of the conduct of Her Majesty's Ministers. Undoubtedly it is of the highest importance that we should legislate well. But it is also of the highest importance that those who govern

us should have, and should be known to have, fixed principles, and should be guided by those principles both in office and in opposition. It is of the highest importance that the world should not be under the impression that a statesman is a person who, when he is out, will profess and promise anything in order to get in, and who, when he is in, will forget all that he professed and promised when he was out. I need not, I suppose, waste time in proving that a law may be in itself an exceedingly good law, and yet that it may be a law which, when viewed in connection with the former conduct of those who proposed it, may prove them to be undeserving of the confidence of their country. When this is the case, our course is clear. We ought to distinguish between the law and its authors. The law we ought, on account of its intrinsic merits, to support. Of the authors of the law, it may be our duty to speak in terms of censure.

In such terms I feel it to be my duty to speak of Her Majesty's present advisers. I have no personal hostility to any of them; and that political hostility which I do not disavow has never prevented me from doing justice to their abilities and virtues. I have always admitted, and I now most willingly admit, that the right honourable Baronet at the head of the Government possesses many of the qualities of an excellent minister, — eminent talents for debate, eminent talents for business, great experience, great information, great skill in the management of this House. I will go further, and say that I give him full credit for a sincere desire to promote the welfare of his country. Nevertheless, it is impossible for me to deny that there is too much ground for the reproaches of those who, having, in spite of a bitter ex-

perience, a second time trusted him, now find themselves a second time deluded. I cannot but see that it has been too much his practice, when in opposition, to make use of passions with which he has not the slightest sympathy, and of prejudices which he regards with profound contempt. As soon as he is in power a change takes place. The instruments which have done his work are flung aside. The ladder by which he has climbed is kicked down. I am forced to say that the right honourable Baronet acts thus habitually and on system. The instance before us is not a solitary instance. I do not wish to dwell on the events which took place seventeen or eighteen years ago, on the language which the right honourable Baronet held about the Catholic question when he was out of power in 1827, and on the change which twelve months of power produced. I will only say that one such change was quite enough for one life. Again the right honourable Baronet was in opposition; and again he employed his old tactics. I will not minutely relate the history of the manœuvres by which the Whig Government was overthrown. It is enough to say that many powerful interests were united against that Government under the leading of the right honourable Baronet, and that of those interests there is not one which is not now disappointed and complaining. To confine my remarks to the subject immediately before us, — can any man deny that, of all the many cries which were raised against the late administration, that which most strongly stirred the public mind was the cry of No Popery? Is there a single gentleman in the House who doubts that, if, four years ago, my noble friend, the Member for the City of London, had proposed this bill, he would have been withstood by every member of the

present Cabinet? Four years ago, Sir, we were discussing a very different bill. The party which was then in opposition, and which is now in place, was attempting to force through Parliament a law, which bore indeed a specious name, but of which the effect would have been to disfranchise the Roman Catholic electors of Ireland by tens of thousands. It was in vain that we argued, that we protested, that we asked for the delay of a single session, for delay till an inquiry could be made, for delay till a Committee should report. We were told that the case was one of extreme urgency, that every hour was precious, that the House must, without loss of time, be purged of the minions of Popery. These arts succeeded. A change of administration took place. The right honourable Baronet came into power. He has now been near four years in power. He has had a Parliament which would, beyond all doubt, have passed eagerly and gladly that Registration Bill which he and his colleagues had pretended that they thought indispensable to the welfare of the State. And where is that bill now? Flung away; condemned by its own authors; pronounced by them to be so oppressive, so inconsistent with all the principles of representative Government, that, though they had vehemently supported it when they were on your left hand, they could not think of proposing it from the Treasury Bench. And what substitute does the honourable Baronet give his followers to console them for the loss of their favourite Registration Bill? Even this bill for the endowment of Maynooth College. Was such a feat of legerdemain ever seen? And can we wonder that the eager, honest, hotheaded Protestants, who raised you to power in

the confident hope that you would curtail the privileges of the Roman Catholics, should stare and grumble when you propose to give public money to the Roman Catholics? Can we wonder that, from one end of the country to the other, everything should be ferment and uproar, that petitions should, night after night, whiten all our benches like a snowstorm? Can we wonder that the people out of doors should be exasperated by seeing the very men who, when we were in office, voted against the old grant to Maynooth, now pushed and pulled into the House by your whippers-in to vote for an increased grant? The natural consequences follow. All those fierce spirits, whom you hallooed on to harass us, now turn round and begin to worry you. The Orangeman raises his war-whoop: Exeter Hall sets up its bray: Mr. MacNeill shudders to see more costly cheer than ever provided for the priests of Baal at the table of the Queen; and the Protestant Operatives of Dublin call for impeachments in exceedingly bad English. But what did you expect? Did you think, when, to serve your turn, you called the Devil up, that it was as easy to lay him as to raise him? Did you think, when you went on, session after session, thwarting and reviling those whom you knew to be in the right, and flattering all the worst passions of those whom you knew to be in the wrong, that the day of reckoning would never come? It has come. There you sit, doing penance for the disingenuousness of years. If it be not so, stand up manfully, and clear your fame before the House and the country. Show us that some steady principle has guided your conduct with respect to Irish affairs. Show us how, if you are honest in 1845, you

can have been honest in 1841. Explain to us why, after having goaded Ireland to madness for the purpose of ingratiating yourselves with the English, you are now setting England on fire for the purpose of ingratiating yourselves with the Irish. Give us some reason which shall prove that the policy which you are following, as Ministers, is entitled to support, and which shall not equally prove you to have been the most factious and unprincipled opposition that ever this country saw.

But, Sir, am I, because I think thus of the conduct of Her Majesty's Ministers, to take the counsel of the honourable Member for Shrewsbury and to vote against their bill? Not so. I know well that the fate of this bill and the fate of the administration are in our hands. But far be it from us to imitate the arts by which we were overthrown. The spectacle exhibited on the bench opposite will do quite mischief enough. That mischief will not be lessened, but doubled, if there should be an answering display of inconsistency on this side of the House. If this bill, having been introduced by Tories, shall be rejected by Whigs, both the great parties in the State will be alike discredited. There will be one vast shipwreck of all the public character in the country. Therefore, making up my mind to sacrifices which are not unattended with pain, and repressing some feelings which stir strongly within me, I have determined to give my strenuous support to this bill. Yes, Sir, to this bill, and to every bill which shall seem to me likely to promote the real Union of Great Britain and Ireland, I will give my support, regardless of obloquy, regardless of the risk which I may run of losing my seat in Par-

liament. For such obloquy I have learned to consider as true glory; and as to my seat, I am determined that it never shall be held by an ignominious tenure; and I am sure that it can never be lost in a more honourable cause.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 23D OF APRIL, 1845.

On the twenty-third of April, 1845, the order of the day for going into Committee on the Maynooth College Bill was read. On the motion that the Speaker should leave the chair, Mr. Ward, Member for Sheffield, proposed the following amendment: —

"That it is the opinion of this House that any provision to be made for the purposes of the present Bill ought to be taken from the funds already applicable to ecclesiastical purposes in Ireland."

After a debate of two nights the amendment was rejected by 322 votes to 148. On the first night the following Speech was made: —

I WAS desirous, Sir, to catch your eye this evening, because it happens that I have never yet found an opportunity of fully explaining my views on the important subject of the Irish Church. Indeed, I was not in this country when that subject for a time threw every other into the shade, disturbed the whole political world, produced a schism in the administration of Lord Grey, and overthrew the short administration of the right honourable Baronet opposite. The motion now before us opens, I conceive, the whole question. My honourable friend, the Member for Sheffield, indeed, asks us only to transfer twenty-six thousand pounds a year from the Established Church of Ireland to the College of Maynooth. But this motion, I

think, resembles an action of ejectment brought for a single farm, with the view of trying the title to a large estate. Whoever refuses to assent to what is now proposed must be considered as holding the opinion that the property of the Irish Church ought to be held inviolate: and I can scarcely think that any person will vote for what is now proposed, who is not prepared to go very much farther. The point at issue I take, therefore, to be this: whether the Irish Church, as now constituted, shall be maintained or not?

Now, Sir, when a legislator is called upon to decide whether an institution shall be maintained or not, it seems to me that he ought in the first place to examine whether it be a good or a bad institution. This may sound like a truism; but if I am to judge by the speeches which, on this and former occasions, have been made by gentlemen opposite, it is no truism, but an exceedingly recondite truth. I, Sir, think the Established Church of Ireland a bad institution. I will go farther. I am not speaking in anger, or with any wish to excite anger in others; I am not speaking with rhetorical exaggeration: I am calmly and deliberately expressing, in the only appropriate terms, an opinion which I formed many years ago, which all my observations and reflections have confirmed, and which I am prepared to support by reasons, when I say that, of all the institutions now existing in the civilised world, the Established Church of Ireland seems to me the most absurd.

I cannot help thinking that the speeches of those who defend this Church suffice of themselves to prove that my views are just. For who ever heard anybody defend it on its merits? Has any gentleman to-night defended it on its merits? We are told of the Roman

Catholic oath ; as if that oath, whatever be its meaning, whatever be the extent of the obligation which it lays on the consciences of those who take it, could possibly prove this Church to be a good thing. We are told that Roman Catholics of note, both laymen and divines, fifty years ago, declared that if they were relieved from the disabilities under which they then lay, they should willingly see the Church of Ireland in possession of all its endowments: as if anything that anybody said fifty years ago could absolve us from the plain duty of doing what is now best for the country. We are told of the Fifth Article of Union; as if the Fifth Article of Union were more sacred than the Fourth. Surely, if there be any article of the Union which ought to be regarded as inviolable, it is the Fourth, which settles the number of members whom Great Britain and Ireland respectively are to send to Parliament. Yet the provisions of the Fourth Article have been altered with the almost unanimous assent of all parties in the State. The change was proposed by the noble lord who is now Secretary for the Colonies. It was supported by the right honourable Baronet, the Secretary for the Home Department, and by other members of the present Administration. And so far were the opponents of the Reform Bill from objecting to this infraction of the Treaty of Union that they were disposed to go still farther. I well remember the night on which we debated the question, whether members should be given to Finsbury, Marylebone, Lambeth, and the Tower Hamlets. On that occasion, the Tories attempted to seduce the Irish Reformers from us by promising that Ireland should have a share of the plunder of the metropolitan districts. After this, Sir, I must think it childish in

gentlemen opposite to appeal to the Fifth Article of the Union. With still greater surprise, did I hear the right honourable gentleman, the Secretary for Ireland, say that, if we adopt this amendment, we shall make all landed and funded property insecure. I am really ashamed to answer such an argument. Nobody proposes to touch any vested interest; and surely it cannot be necessary for me to point out to the right honourable gentleman the distinction between property in which some person has a vested interest, and property in which no person has a vested interest. That distinction is part of the very rudiments of political science. Then the right honourable gentleman quarrels with the form of the amendment. Why, Sir, perhaps a more convenient form might have been adopted. But is it by cavils like these that a great institution should be defended? And who ever heard the Established Church of Ireland defended except by cavils like these? Who ever heard of any of her advocates speak a manly and statesmanlike language? Who ever heard any of her advocates say, "I defend this institution because it is a good institution: the ends for which an Established Church exists are such and such: and I will show you that this Church attains those ends"? Nobody says this. Nobody has the hardihood to say it. What divine, what political speculator who has written in defence of ecclesiastical establishments, ever defended such establishments on grounds which will support the Church of Ireland? What panegyric has ever been pronounced on the Churches of England and Scotland, which is not a satire on the Church of Ireland? What traveller comes among us who is not moved to wonder and derision by the Church of Ireland? What foreign

writer on British affairs, whether European or American, whether Protestant or Catholic, whether Conservative or Liberal, whether partial to England or prejudiced against England, ever mentions the Church of Ireland without expressing his amazement that such an establishment should exist among reasonable men?

And those who speak thus of this Church speak justly. Is there anything else like it? Was there ever anything else like it? The world is full of ecclesiastical establishments: but such a portent as this Church of Ireland is nowhere to be found. Look round the Continent of Europe. Ecclesiastical establishments from the White Sea to the Mediterranean: ecclesiastical establishments from the Wolga to the Atlantic: but nowhere the Church of a small minority enjoying exclusive establishment. Look at America? There you have all forms of Christianity, from Mormonism, if you call Mormonism Christianity, to Romanism. In some places you have the voluntary system. In some you have several religions connected with the State. In some you have the solitary ascendancy of a single Church. But nowhere, from the Arctic Circle to Cape Horn, do you find the Church of a small minority exclusively established. Look round our own empire. We have an Established Church in England; it is the Church of the majority. There is an Established Church in Scotland. When it was set up, it was the Church of the majority. A few months ago, it was the Church of the majority. I am not quite sure that, even after the late unhappy disruption, it is the Church of the minority. In our colonies the State does much for the support of religion; but in no colony, I believe, do we give exclusive support to the religion of the minority. Nay,

even in those parts of the empire where the great body of the population is attached to absurd and immoral superstitions, you have not been guilty of the folly and injustice of calling on them to pay for a Church which they do not want. We have not portioned out Bengal and the Carnatic into parishes, and scattered Christian rectors with stipends and glebes, among millions of Pagans and Mahometans. We keep, indeed, a small Christian establishment, or rather three small Christian establishments,—Anglican, Presbyterian, and Catholic. But we keep them only for the Christians in our civil and military services; and we leave untouched the revenues of the mosques and temples. In one country alone is to be seen the spectacle of a community of eight millions of human beings, with a Church which is the Church of only eight hundred thousand.

It has been often said, and has been repeated to-night by the honourable Member for Radnor, that this Church, though it includes only a tenth part of the population, has more than half the wealth of Ireland. But is that an argument in favour of the present system? Is it not the strongest argument that can be urged in favour of an entire change? It is true that there are many cases in which it is fit that property should prevail over number. Those cases may, I think, be all arranged in two classes. One class consists of those cases in which the preservation or improvement of property is the object in view. Thus, in a railway company, nothing can be more reasonable than that one proprietor who holds five hundred shares should have more power than five proprietors who hold one share each. The other class of cases in which property may justly confer privileges is where

superior intelligence is required. Property is indeed but a very imperfect test of intelligence. But, when we are legislating on a large scale, it is perhaps the best which we can apply. For, where there is no property, there can very seldom be any mental cultivation. It is on this principle that special jurors, who have to try causes of peculiar nicety, are taken from a wealthier order than that which furnishes common jurors. But there cannot be a more false analogy than to reason from these cases to the case of an Established Church. So far is it from being true that, in establishing a Church, we ought to pay more regard to one rich man than to five poor men, that the direct reverse is the sound rule. We ought to pay more regard to one poor man than to five rich men. For, in the first place, the public ordinances of religion are of far more importance to the poor man than to the rich man. I do not mean to say that a rich man may not be the better for hearing sermons and joining in public prayers. But these things are not indispensable to him; and, if he is so situated that he cannot have them, he may find substitutes. He has money to buy books, time to study them, understanding to comprehend them. Every day he may commune with the minds of Hooker, Leighton, and Barrow. He therefore stands less in need of the oral instruction of a divine than a peasant who cannot read, or who, if he can read, has no money to procure books, or leisure to peruse them. Such a peasant, unless instructed by word of mouth, can know no more of Christianity than a wild Hottentot. Nor is this all. The poor man not only needs the help of a minister of religion more than the rich man, but is also less able to procure it. If there were no Established Church, people in our rank

of life would always be provided with preachers to their mind at an expense which they would scarcely feel. But when a poor man, who can hardly give his children their fill of potatoes, has to sell his pig in order to pay something to his priest, the burden is a heavy one. This is, in fact, the strongest reason for having an established church in any country. It is the one reason which prevents me from joining with the partisans of the voluntary system. I should think their arguments unanswerable if the question regarded the upper and middle classes only. If I would keep up the Established Church of England, it is not for the sake of lords, and baronets, and country gentlemen of five thousand pounds a-year, and rich bankers in the city. I know that such people will always have churches, aye, and cathedrals, and organs, and rich communion plate. The person about whom I am uneasy is the working man; the man who would find it difficult to pay even five shillings or ten shillings a-year out of his small earnings for the ministrations of religion. What is to become of him under the voluntary system? Is he to go without religious instruction altogether? That we should all think a great evil to himself, and a great evil to society. Is he to pay for it out of his slender means? That would be a heavy tax. Is he to be dependent on the liberality of others? That is a somewhat precarious and a somewhat humiliating dependence. I prefer, I own, that system under which there is, in the rudest and most secluded district, a house of God, where public worship is performed after a fashion acceptable to the great majority of the community, and where the poorest may partake of the ordinances of religion, not as an alms, but as a right. But does this argument ap-

ply to a Church like the Church of Ireland? It is not necessary on this occasion to decide whether the arguments in favour of ecclesiastical establishments, or the arguments in favour of the voluntary system, be the stronger. There are weighty considerations on both sides. Balancing them as well as I can, I think that, as respects England, the preponderance is on the side of the Establishment. But, as respects Ireland, there is no balancing. All the weights are in one scale. All the arguments which incline us against the Church of England, and all the arguments which incline us in favour of the Church of England, are alike arguments against the Church of Ireland; against the Church of the few; against the Church of the wealthy; against the Church which, reversing every principle on which a Christian Church should be founded, fills the rich with its good things, and sends the hungry empty away.

One view which has repeatedly, both in this House and out of it, been taken of the Church of Ireland, seems to deserve notice. It is admitted, as indeed it could not well be denied, that this Church does not perform the functions which are everywhere else expected from similar institutions; that it does not instruct the body of the people; that it does not administer religious consolation to the body of the people. But, it is said, we must regard this Church as an aggressive Church, a proselytising Church, a Church militant among spiritual enemies. Its office is to spread Protestantism over Munster and Connaught. I remember well that, eleven years ago, when Lord Grey's Government proposed to reduce the number of Irish bishoprics, this language was held. It was acknowledged that there were more bishops than the

number of persons then in communion with the Established Church required. But that number, we were assured, would not be stationary; and the hierarchy, therefore, ought to be constituted with a view to the millions of converts who would soon require the care of Protestant pastors. I well remember the strong expression which was then used by my honourable friend, the Member for the University of Oxford. We must, he said, make allowance for the expansive force of Protestantism. A few nights ago a noble lord for whom I, in common with the whole House, feel the greatest respect, the Member for Dorsetshire,[1] spoke of the missionary character of the Church of Ireland. Now, Sir, if such language had been held at the Council Board of Queen Elizabeth when the constitution of this Church was first debated there, there would have been no cause for wonder. Sir William Cecil or Sir Nicholas Bacon might very naturally have said, "There are few Protestants now in Ireland, it is true. But when we consider how rapidly the Protestant theology has spread, when we remember that it is little more than forty years since Martin Luther began to preach against indulgences, and when we see that one half of Europe is now emancipated from the old superstition, we may reasonably expect that the Irish will soon follow the example of the other nations which have embraced the doctrines of the Reformation." Cecil, I say, and his colleagues, might naturally entertain this expectation, and might without absurdity make preparations for an event which they regarded as in the highest degree probable. But we, who have seen this system in full operation from the year 1560 to the year 1845, ought to have been

[1] Lord Ashley.

taught better, unless indeed we are past all teaching. Two hundred and eighty-five years has this Church been at work. What could have been done for it in the way of authority, privileges, endowments, which has not been done? Did any other set of bishops and priests in the world ever receive so much for doing so little? Nay, did any other set of bishops and priests in the world ever receive half as much for doing twice as much? And what have we to show for all this lavish expenditure? What but the most zealous Roman Catholic population on the face of the earth? Where you were one hundred years ago, where you were two hundred years ago, there you are still, not victorious over the domain of the old faith, but painfully and with dubious success defending your own frontier, your own English pale. Sometimes a deserter leaves you. Sometimes a deserter steals over to you. Whether your gains or losses of this sort be the greater I do not know; nor is it worth while to inquire. On the great solid mass of the Roman Catholic population you have made no impression whatever. There they are, as they were ages ago, ten to one against the members of your Established Church. Explain this to me. I speak to you, the zealous Protestants on the other side of the House. Explain this to me on Protestant principles. If I were a Roman Catholic, I could easily account for the phenomena. If I were a Roman Catholic, I should content myself with saying that the mighty hand and the outstretched arm had been put forth, according to the promise, in defence of the unchangeable Church; that He who in the old time turned into blessings the curses of Balaam, and smote the host of Sennacherib, had signally confounded the arts of heretic statesmen. But what is a

Protestant to say? He holds that, through the whole of this long conflict, during which ten generations of men have been born and have died, reason and Scripture have been on the side of the Established Clergy. Tell us then what we are to say of this strange war, in which reason and Scripture, backed by wealth, by dignity, by the help of the civil power, have been found no match for oppressed and destitute error? The fuller our conviction that our doctrines are right, the fuller, if we are rational men, must be our conviction that our tactics have been wrong, and that we have been encumbering the cause which we meant to aid.

Observe, it is not only the comparative number of Roman Catholics and Protestants that may justly furnish us with matter for serious reflection. The quality as well as the quantity of Irish Romanism deserves to be considered. Is there any other country inhabited by a mixed population of Catholics and Protestants, any other country in which Protestant doctrines have long been freely promulgated from the press and from the pulpit, where the Roman Catholic spirit is so strong as in Ireland? I believe not. The Belgians are generally considered as very stubborn and zealous Roman Catholics. But I do not believe that either in stubbornness or in zeal they equal the Irish. And this is the fruit of three centuries of Protestant archbishops, bishops, archdeacons, deans, and rectors. And yet where is the wonder? Is this a miracle that we should stand aghast at it? Not at all. It is a result which human prudence ought to have long ago foreseen and long ago averted. It is the natural succession of effect to cause. If you do not understand it, it is because you do not understand what the nature and operation of a Church is. There

are parts of the machinery of Government which may be just as efficient when they are hated as when they are loved. An army, a navy, a preventive service, a police force, may do their work whether the public feeling be with them or against them. Whether we dislike the corn laws or not, your custom houses and your coast guard keep out foreign corn. The multitude at Manchester was not the less effectually dispersed by the yeomanry, because the interference of the yeomanry excited the bitterest indignation. There the object was to produce a material effect; the material means were sufficient; and nothing more was required. But a Church exists for moral ends. A Church exists to be loved, to be reverenced, to be heard with docility, to reign in the understandings and hearts of men. A Church which is abhorred is useless or worse than useless; and to quarter a hostile Church on a conquered people, as you would quarter a soldiery, is therefore the most absurd of mistakes. This mistake our ancestors committed. They posted a Church in Ireland just as they posted garrisons in Ireland. The garrisons did their work. They were disliked. But that mattered not. They had their forts and their arms: and they kept down the aboriginal race. But the Church did not do its work. For to that work the love and confidence of the people were essential.

I may remark in passing that, even under more favourable circumstances, a parochial priesthood is not a good engine for the purpose of making proselytes. The Church of Rome, whatever we may think of her ends, has shown no want of sagacity in the choice of means; and she knows this well. When she makes a great aggressive movement, — and many such movements she has made with signal success, — she employs,

not her parochial clergy, but a very different machinery. The business of her parish priests is to defend and govern what has been won. It is by the religious orders, and especially by the Jesuits, that the great acquisitions have been made. In Ireland your parochial clergy lay under two great disadvantages. They were endowed and they were hated; so richly endowed that few among them cared to turn missionaries; so bitterly hated that those few had but little success. They long contented themselves with receiving the emoluments arising from their benefices, and neglected those means to which, in other parts of Europe, Protestantism had owed its victory. It is well known that of all the instruments employed by the Reformers of Germany, of England, and of Scotland, for the purpose of moving the public mind, the most powerful was the Bible translated into the vernacular tongues. In Ireland the Protestant Church had been established near half a century before the New Testament was printed in Erse. The whole Bible was not printed in Erse till this Church had existed more than one hundred and twenty years. Nor did the publication at last take place under the patronage of the lazy and wealthy hierarchy. The expense was defrayed by a layman, the illustrious Robert Boyle. So things went on century after century. Swift, more than a hundred years ago, described the prelates of his country as men gorged with wealth and sunk in indolence, whose chief business was to bow and job at the Castle. The only spiritual function, he says, which they performed was ordination; and, when he saw what persons they ordained, he doubted whether it would not be better that they should neglect that function as they neglected every other. Those, Sir, are now living who can well remember how the revenues

of the richest see in Ireland were squandered on the shores of the Mediterranean by a bishop, whose epistles, very different compositions from the epistles of Saint Peter and Saint John, may be found in the correspondence of Lady Hamilton. Such abuses as these called forth no complaint, no reprimand. And all this time the true pastors of the people, meanly fed and meanly clothed, frowned upon by the law, exposed to the insults of every petty squire, who gloried in the name of Protestant, were to be found in miserable cabins, amidst filth, and famine, and contagion, instructing the young, consoling the miserable, holding up the crucifix before the eyes of the dying. Is it strange that, in such circumstances, the Roman Catholic religion should have been constantly becoming dearer and dearer to an ardent and sensitive people, and that your Established Church should have been constantly sinking lower and lower in their estimation? I do not of course hold the living clergy of the Irish Church answerable for the faults of their predecessors. God forbid! To do so would be the most flagitious injustice. I know that a salutary change has taken place. I have no reason to doubt that in learning and regularity of life the Protestant clergy of Ireland are on a level with the clergy of England. But in the way of making proselytes they do as little as those who preceded them. An enmity of three hundred years separates the nation from those who should be its teachers. In short, it is plain that the mind of Ireland has taken its ply, and is not to be bent in a different direction, or, at all events, is not to be so bent by your present machinery.

Well, then, this Church is inefficient as a missionary Church. But there is yet another end which, in the opinion of some eminent men, a Church is meant to

serve. That end has been often in the minds of practical politicians. But the first speculative politician who distinctly pointed it out was Mr. Hume. Mr. Hume, as might have been expected from his known opinions, treated the question merely as it related to the temporal happiness of mankind; and, perhaps, it may be doubted whether he took quite a just view of the manner in which even the temporal happiness of mankind is affected by the restraints and consolations of religion. He reasoned thus: — It is dangerous to the peace of society that the public mind should be violently excited on religious subjects. If you adopt the voluntary system, the public mind will always be so excited. For every preacher, knowing that his bread depends on his popularity, seasons his doctrine high, and practises every art for the purpose of obtaining an ascendancy over his hearers. But when the Government pays the minister of religion, he has no pressing motive to inflame the zeal of his congregation. He will probably go through his duties in a somewhat perfunctory manner. His power will not be very formidable; and, such as it is, it will be employed in support of that order of things under which he finds himself so comfortable. Now, Sir, it is not necessary to inquire whether Mr. Hume's doctrine be sound or unsound. For, sound or unsound, it furnishes no ground on which you can rest the defence of the institution which we are now considering. It is evident that by establishing in Ireland the Church of the minority in connection with the State, you have produced, in the very highest degree, all those evils which Mr. Hume considered as inseparable from the voluntary system. You may go all over the world without finding another country where religious differences take a form so dangerous to the peace of society;

where the common people are so much under the influence of their priests; or where the priests who teach the common people are so completely estranged from the civil Government.

And now, Sir, I will sum up what I have said. For what end does the Church of Ireland exist? Is that end the instruction and solace of the great body of the people? You must admit that the Church of Ireland has not attained that end. Is the end which you have in view the conversion of the great body of the people from the Roman Catholic religion to a purer form of Christianity? You must admit that the Church of Ireland has not attained that end. Or do you propose to yourselves the end contemplated by Mr. Hume, — the peace and security of civil society? You must admit that the Church of Ireland has not attained that end. In the name of common sense, then, tell us what good end this Church has attained; or suffer us to conclude, as I am forced to conclude, that it is emphatically a bad institution.

It does not, I know, necessarily follow that, because an institution is bad, it is therefore to be immediately destroyed. Sometimes a bad institution takes a strong hold on the hearts of mankind, intertwines its roots with the very foundations of society, and is not to be removed without serious peril to order, law, and property. For example, I hold polygamy to be one of the most pernicious practices that exist in the world. But if the Legislative Council of India were to pass an Act prohibiting polygamy, I should think that they were out of their senses. Such a measure would bring down the vast fabric of our Indian Empire with one crash. But is there any similar reason for dealing tenderly with the Established Church of Ireland?

That Church, Sir, is not one of those bad institutions which ought to be spared because they are popular, and because their fall would injure good institutions. It is, on the contrary, so odious, and its vicinage so much endangers valuable parts of our polity, that, even if it were in itself a good institution, there would be strong reasons for giving it up.

The honourable gentleman who spoke last told us that we cannot touch this Church without endangering the Legislative Union. Sir, I have given my best attention to this important point; and I have arrived at a very different conclusion. The question to be determined is this: — What is the best way of preserving political union between countries in which different religions prevail? With respect to this question we have, I think, all the light which history can give us. There is no sort of experiment described by Lord Bacon which we have not tried. Inductive philosophy is of no value if we cannot trust to the lessons derived from the experience of more than two hundred years. England has long been closely connected with two countries less powerful than herself, and differing from herself in religion. The Scottish people are Presbyterians; the Irish people are Roman Catholics. We determined to force the Anglican system on both countries. In both countries great discontent was the result. At length Scotland rebelled. Then Ireland rebelled. The Scotch and Irish rebellions, taking place at a time when the public mind of England was greatly and justly excited, produced the Great Rebellion here, and the downfall of the Monarchy, of the Church, and of the Aristocracy. After the Restoration we again tried the old system. During twenty-eight years we persisted in the attempt to force Prelacy on the Scotch; and

the consequence was, during those twenty-eight years, Scotland exhibited a frightful spectacle of misery and depravity. The history of that period is made up of oppression and resistance, of insurrections, barbarous punishments, and assassinations. One day a crowd of zealous rustics stand desperately on their defence, and repel the dragoons. Next day the dragoons scatter and hew down the flying peasantry. One day the kneebones of a wretched Covenanter are beaten flat in that accursed boot. Next day the Lord Primate is dragged out of his carriage by a band of raving fanatics, and, while screaming for mercy, is butchered at the feet of his own daughter. So things went on, till at last we remembered that institutions are made for men, and not men for institutions. A wise Government desisted from the vain attempt to maintain an Episcopal Establishment in a Presbyterian nation. From that moment the connection between England and Scotland became every year closer and closer. There were still, it is true, many causes of animosity. There was an old antipathy between the nations, the effect of many blows given and received on both sides. All the greatest calamities that had befallen Scotland had been inflicted by England. The proudest events in Scottish history were victories obtained over England. Yet all angry feelings died rapidly away. The union of the nations became complete. The oldest man living does not remember to have heard any demagogue breathe a wish for separation. Do you believe that this would have happened if England had, after the Revolution, persisted in attempting to force the surplice and the Prayer Book on the Scotch? I tell you that, if you had adhered to the mad scheme of having a religious union with Scotland, you never would have

had a cordial political union with her. At this very day you would have had monster meetings on the north of the Tweed, and another Conciliation Hall, and another repeal button, with the motto, "Nemo me impune lacessit." In fact, England never would have become the great power that she is. For Scotland would have been, not an addition to the effective strength of the Empire, but a deduction from it. As often as there was a war with France or Spain, there would have been an insurrection in Scotland. Our country would have sunk into a kingdom of the second class. One such Church as that about which we are now debating is a serious incumbrance to the greatest empire. Two such Churches no empire could bear. You continued to govern Ireland during many generations as you had governed Scotland in the days of Lauderdale and Dundee. And see the result. Ireland has remained, indeed, a part of your Empire. But you know her to be a source of weakness rather than of strength. Her misery is a reproach to you. Her discontent doubles the dangers of war. Can you, with such facts before you, doubt about the course which you ought to take? Imagine a physician with two patients, both afflicted with the same disease. He applies the same sharp remedies to both. Both become worse and worse with the same inflammatory symptoms. Then he changes his treatment of one case, and gives soothing medicines. The sufferer revives, grows better day by day, and is at length restored to perfect health. The other patient is still subjected to the old treatment, and becomes constantly more and more disordered. How would a physician act in such a case? And are not the principles of experimental philosophy the same in politics as in medicine?

Therefore, Sir, I am fully prepared to take strong measures with regard to the Established Church of Ireland. It is not necessary for me to say precisely how far I would go. I am aware that it may be necessary, in this as in other cases, to consent to a compromise. But the more complete the reform which may be proposed, provided always that vested rights be, as I am sure they will be, held strictly sacred, the more cordially shall I support it.

That some reform is at hand I cannot doubt. In a very short time we shall see the evils which I have described mitigated, if not entirely removed. A Liberal Administration would make this concession to Ireland from a sense of justice. A Conservative Administration will make it from a sense of danger. The right honourable Baronet has given the Irish a lesson which will bear fruit. It is a lesson which rulers ought to be slow to teach; for it is one which nations are but too apt to learn. We have repeatedly been told by acts — we are now told almost in express words — that agitation and intimidation are the means which ought to be employed by those who wish for redress of grievances from the party now in power. Such indeed has too long been the policy of England towards Ireland; but it was surely never before avowed with such indiscreet frankness. Every epoch which is remembered with pleasure on the other side of St. George's Channel coincides with some epoch which we here consider as disastrous and perilous. To the American war and the volunteers the Irish Parliament owed its independence. To the French revolutionary war the Irish Roman Catholics owed the elective franchise. It was in vain that all the great orators and statesmen of two generations exerted themselves to re-

move the Roman Catholic disabilities, — Burke, Fox, Pitt, Windham, Grenville, Grey, Plunkett, Wellesley, Grattan, Canning, Wilberforce. Argument and expostulation were fruitless. At length pressure of a stronger kind was boldly and skilfully applied ; and soon all difficulties gave way. The Catholic Association, the Clare election, the dread of civil war, produced the Emancipation Act. Again, the cry of No Popery was raised. That cry was successful. A faction which had reviled in the bitterest terms the mild administration of Whig Viceroys, and which was pledged to the wholesale disfranchisement of the Roman Catholics, rose to power. One leading member of that faction had drawn forth loud cheers by declaiming against the minions of Popery. Another had designated six millions of Irish Catholics as aliens. A third had publicly declared his conviction, that a time was at hand when all Protestants of every persuasion would find it necessary to combine firmly against the encroachments of Romanism. From such men we expected nothing but oppression and intolerance. We are agreeably disappointed to find that a series of conciliatory bills is brought before us. But, in the midst of our delight, we cannot refrain from asking for some explanation of so extraordinary a change. We are told in reply, that the monster meetings of 1843 were very formidable, and that our relations with America are in a very unsatisfactory state. The public opinion of Ireland is to be consulted, the religion of Ireland is to be treated with respect, not because equity and humanity plainly enjoin that course ; for equity and humanity enjoined that course as plainly when you were calumniating Lord Normanby, and hurrying forward your Registration Bill ; but because Mr. O'Connell and Mr. Polk

nave between them made you very uneasy. Sir, it is with shame, with sorrow, and, I will add, with dismay, that I listen to such language. I have hitherto disapproved of the monster meetings of 1843. I have disapproved of the way in which Mr. O'Connell and some other Irish representatives have seceded from this House. I should not have chosen to apply to those gentlemen the precise words which were used on a former occasion by the honourable and learned Member for Bath. But I agreed with him in substance. I thought it highly to the honour of my right honourable friend, the Member for Dungarvan, and of my honourable friends, the Members for Kildare, for Roscommon, and for the city of Waterford, that they had the moral courage to attend the service of this House, and to give us the very valuable assistance which they are, in various ways, so well qualified to afford. But what am I to say now? How can I any longer deny that the place where an Irish gentleman may best serve his country is Conciliation Hall? How can I expect that any Irish Roman Catholic can be very sorry to learn that our foreign relations are in an alarming state, or can rejoice to hear that all danger of war has blown over? I appeal to the Conservative Members of this House. I ask them whither we are hastening? I ask them what is to be the end of a policy of which it is the principle to give nothing to justice, and everything to fear? We have been accused of truckling to Irish agitators. But I defy you to show us that we ever made or are now making to Ireland a single concession which was not in strict conformity with our known principles. You may therefore trust us, when we tell you that there is a point where we will stop. Our language to the Irish is this: — "You asked for

emancipation: it was agreeable to our principles that you should have it; and we assisted you to obtain it. You wished for a municipal system, as popular as that which exists in England: we thought your wish reasonable, and did all in our power to gratify it. This grant to Maynooth is, in our opinion, proper; and we will do our best to obtain it for you, though it should cost us our popularity and our seats in Parliament. The Established Church in your island, as now constituted, is a grievance of which you justly complain. We will strive to redress that grievance. The Repeal of the Union we regard as fatal to the Empire: and we never will consent to it; never, though the country should be surrounded by dangers as great as those which threatened her when her American colonies, and France, and Spain, and Holland, were leagued against her, and when the armed neutrality of the Baltic disputed her maritime rights; never, though another Bonaparte should pitch his camp in sight of Dover Castle; never, till all has been staked and lost; never, till the four quarters of the world have been convulsed by the last struggle of the great English people for their place among the nations." This, Sir, is the true policy. When you give, give frankly. When you withhold, withhold resolutely. Then what you give is received with gratitude; and, as for what you withhold, men, seeing that to wrest it from you is no safe or easy enterprise, cease to hope for it, and, in time, cease to wish for it. But there is a way of so withholding as merely to excite desire, and of so giving as merely to excite contempt; and that way the present Ministry has discovered. Is it possible for me to doubt that in a few months the same machinery which sixteen years ago extorted from the men now in power

the Emancipation Act, and which has now extorted from them the bill before us, will again be put in motion? Who shall say what will be the next sacrifice? For my own part I firmly believe that, if the present Ministers remain in power five years longer, and if we should have — which God avert! — a war with France or America, the Established Church of Ireland will be given up. The right honourable Baronet will come down to make a proposition conceived in the very spirit of the Motions which have repeatedly been made by my honourable friend, the Member for Sheffield. He will again be deserted by his followers; he will again be dragged through his difficulties by his opponents. Some honest Lord of the Treasury may determine to quit his office rather than belie all the professions of a life. But there will be little difficulty in finding a successor ready to change all his opinions at twelve hours' notice. I may perhaps, while cordially supporting the bill, again venture to say something about consistency, and about the importance of maintaining a high standard of political morality. The right honourable Baronet will again tell me, that he is anxious only for the success of his measure, and that he does not choose to reply to taunts. And the right honourable gentleman, the Chancellor of the Exchequer, will produce Hansard, will read to the House my speech of this night, and will most logically argue that I ought not to reproach the Ministers with their inconsistency, seeing that I had, from my knowledge of their temper and principles, predicted to a tittle the nature and extent of that inconsistency.

Sir, I have thought it my duty to brand with strong terms of reprehension the practice of conceding, in time of public danger, what is obstinately withheld in

time of public tranquillity. I am prepared, and have long been prepared, to grant much, very much, to Ireland. But if the Repeal Association were to dissolve itself to-morrow, and if the next steamer were to bring news that all our differences with the United States were adjusted in the most honourable and friendly manner, I would grant to Ireland neither more nor less than I would grant if we were on the eve of a rebellion like that of 1798; if war were raging all along the Canadian frontier; and if thirty French sail of the line were confronting our fleet in St. George's Channel. I give my vote from my heart and soul for the amendment of my honourable friend. He calls on us to make to Ireland a concession, which ought in justice to have been made long ago, and which may be made with grace and dignity even now. I well know that you will refuse to make it now. I know as well that you will make it hereafter. You will make it as every concession to Ireland has been made. You will make it when its effect will be, not to appease, but to stimulate agitation. You will make it when it will be regarded, not as a great act of national justice, but as a confession of national weakness. You will make it in such a way, and at such a time, that there will be but too much reason to doubt whether more mischief has been done by your long refusal, or by your tardy and enforced compliance.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 9TH OF JULY, 1845.

On the first of May, 1845, Mr. Rutherfurd, Member for Leith, obtained leave to bring in a bill to regulate admission to the Secular Chairs in the Universities of Scotland. On the morning of the sixth of May the bill was read a first time, and remained two months on the table of the House. At length the second reading was fixed for the ninth of July. Mr. Rutherfurd was unable to attend on that day; and it was necessary that one of his friends should supply his place. Accordingly, as soon as the Order of the day had been read, the following Speech was made.

On a division the bill was rejected by 116 votes to 108. But, in the state in which parties then were, this defeat was generally considered as a victory.

Mr. Speaker, —

I have been requested by my honourable and learned friend, the Member for Leith, to act as his substitute on this occasion. I am truly sorry that any substitute should be necessary. I am truly sorry that he is not among us to take charge of the bill which he not long ago introduced with one of the most forcible and luminous speeches that I ever had the pleasure of hearing. His audience was small; but the few who formed that audience cannot have forgotten the effect which his arguments and his eloquence produced. The Ministers had come down to resist his motion: but their courage failed them: they hesitated: they conferred together: at last they consented that he should have

leave to bring in his bill. Such, indeed, was the language which they held on that and on a subsequent occasion, that both my honourable and learned friend and myself gave them more credit than they deserved. We really believed that they had resolved to offer no opposition to a law which it was quite evident that they perceived to be just and beneficial. But we have been disappointed. It has been notified to us that the whole influence of the Government is to be exerted against our bill. In such discouraging circumstances it is that I rise to move the second reading.

Yet, Sir, I do not altogether despair of success. When I consider what strong, what irresistible reasons we have to urge, I can hardly think it possible that the mandate of the most powerful administration can prevail against them. Nay, I should consider victory, not merely as probable, but as certain, if I did not know how imperfect is the information which English gentlemen generally possess concerning Scotch questions. It is because I know this that I think it my duty to depart from the ordinary practice, and, instead of simply moving the second reading, to explain at some length the principles on which this bill has been framed. I earnestly entreat those English Members who were not so fortunate as to hear the speech of my honourable and learned friend, the Member for Leith, to favour me with their attention. They will, I think, admit that I have a right to be heard with indulgence. I have been sent to this House by a great city which was once a capital, the abode of a Sovereign, the place where the Estates of a realm held their sittings. For the general good of the empire, Edinburgh descended from that high eminence. But, ceasing to be a political metropolis, she became an intellectual metropolis.

For the loss of a court, of a Privy Council, of a Parliament, she found compensation in the prosperity and splendour of an University renowned to the farthest ends of the earth as a school of physical and moral science. This noble and beneficent institution is now threatened with ruin by the folly of the Government, and by the violence of an ecclesiastical faction which is bent on persecution without having the miserable excuse of fanaticism. Nor is it only the University of Edinburgh that is in danger. In pleading for that University, I plead for all the great academical institutions of Scotland. The fate of all depends on the event of this debate; and, in the name of all, I demand the attention of every man who loves either learning or religious liberty.

The first question which we have to consider is, whether the principles of the bill be sound. I believe that they are sound; and I am quite confident that nobody who sits on the Treasury Bench will venture to pronounce them unsound. It does not lie in the mouths of the Ministers to say that literary instruction and scientific instruction are inseparably connected with religious instruction. It is not for them to rail against Godless Colleges. It is not for them to talk with horror of the danger of suffering young men to listen to the lectures of an Arian professor of Botany or of a Popish professor of Chemistry. They are themselves at this moment setting up in Ireland a system exactly resembling the system which we wish to set up in Scotland. Only a few hours have elapsed since they were themselves labouring to prove that, in a country in which a large proportion of those who require a liberal education are dissenters from the Established Church, it is desirable that there should be schools without theolog-

ical tests. The right honourable Baronet at the head of the Government proposes that in the new colleges which he is establishing at Belfast, Cork, Limerick, and Galway, the professorships shall be open to men of every creed; and he has strenuously defended that part of his plan against attacks from opposite quarters, against the attacks of zealous members of the Church of England, and of zealous members of the Church of Rome. Only the day before yesterday the honourable Baronet, the Member for North Devon,[1] ventured to suggest a test as unobjectionable as a test could well be. He would merely have required the professors to declare their general belief in the divine authority of the Old and New Testaments. But even this amendment the First Lord of the Treasury resisted, and I think quite rightly. He told us that it was quite unnecessary to institute an inquisition into the religious opinions of people whose business was merely to teach secular knowledge, and that it was absurd to imagine that any man of learning would disgrace and ruin himself by preaching infidelity from the Greek chair or the Mathematical chair.

Some members of this House certainly held very different language: but their arguments made as little impression on Her Majesty's Ministers as on me. We were told with the utmost earnestness that secular knowledge, unaccompanied by a sound religious faith, and unsanctified by religious feeling, was not only useless, but positively noxious, a curse to the possessor, a curse to society. I feel the greatest personal kindness and respect for some gentlemen who hold this language. But they must pardon me if I say that the proposition which they have so confidently laid down,

[1] Sir Thomas Acland.

however well it may sound in pious ears while it is expressed in general terms, will appear, as soon as it is applied to the real concerns of life, to be too monstrous, too ludicrous, for grave refutation. Is it seriously meant that, if the Captain of an Indiaman is a Socinian, it would be better for himself, his crew, and his passengers, that he should not know how to use his quadrant and his chronometers? Is it seriously meant that, if a druggist is a Swedenborgian, it would be better for himself and his customers that he should not know the difference between Epsom salts and oxalic acid? A hundred millions of the Queen's Asiatic subjects are Mahometans and Pagans. Is it seriously meant that it is desirable that they should be as ignorant as the aboriginal inhabitants of New South Wales, that they should have no alphabet, that they should have no arithmetic, that they should not know how to build a bridge, how to sink a well, how to irrigate a field? If it be true that secular knowledge, unsanctified by true religion, is a positive evil, all these consequences follow. Yet surely they are consequences from which every sane mind must recoil. It is a great evil, no doubt, that a man should be a heretic or an atheist. But I am quite at a loss to understand how this evil is mitigated by his not knowing that the earth moves round the sun, that, by the help of a lever, a small power will lift a great weight, that Virginia is a republic, or that Paris is the capital of France.

On these grounds, Sir, I have cordially supported the Irish Colleges Bill. But the principle of the Irish Colleges and the principle of the bill which I hold in my hand are exactly the same: and the House and the country have a right to know why the authors of the former bill are the opponents of the latter bill.

One distinction there is, I admit, between Ireland and Scotland. It is true that in Scotland there is no clamour against the Union with England. It is true that in Scotland no demagogue can obtain applause and riches by slandering and reviling the English people. It is true that in Scotland there is no traitor who would dare to say that he regards the enemies of the state as his allies. In every extremity the Scottish nation will be found faithful to the common cause of the empire. But Her Majesty's Ministers will hardly, I think, venture to say that this is their reason for refusing to Scotland the boon which they propose to confer on Ireland. And yet, if this be not their reason, what reason can we find? Observe how strictly analogous the cases are. You give it as a reason for establishing in Ireland colleges without tests that the Established Church of Ireland is the Church of the minority. Unhappily it may well be doubted whether the Established Church of Scotland, too, be not now, thanks to your policy, the Church of the minority. It is true that the members of the Established Church of Scotland are about a half of the whole population of Scotland; and that the members of the Established Church of Ireland are not much more than a tenth of the whole population of Ireland. But the question now before us does not concern the whole population. It concerns only the class which requires academical education: and I do not hesitate to say that, in the class which requires academical education, in the class for the sake of which universities exist, the proportion of persons who do not belong to the Established Church is as great in Scotland as in Ireland. You tell us that sectarian education in Ireland is an evil. Is it less an evil in Scotland? You tell us that it is desir-

able that the Protestant and the Roman Catholic should study together at Cork. Is it less desirable that the son of an elder of the Established Church and the son of an elder of the Free Church should study together at Edinburgh? You tell us that it is not reasonable to require from a Professor of Astronomy or Surgery in Connaught a declaration that he believes in the Gospels. On what ground, then, can you think it reasonable to require from every Professor in Scotland a declaration that he approves of the Presbyterian form of church government? I defy you, with all your ingenuity, to find one argument, one rhetorical topic, against our bill which may not be used with equal effect against your own Irish Colleges Bill.

Is there any peculiarity in the academical system of Scotland which makes these tests necessary? Certainly not. The academical system of Scotland has its peculiarities; but they are peculiarities which are not in harmony with these tests, peculiarities which jar with these tests. It is an error to imagine that, by passing this bill, we shall establish a precedent which will lead to a change in the constitution of the Universities of Cambridge and Oxford. Whether such a change be or be not desirable is a question which must be decided on grounds quite distinct from those on which we rest our case. I entreat English gentlemen not to be misled by the word University. That word means two different things on the two different sides of the Tweed. The academical authorities at Cambridge and Oxford stand in a parental relation to the student. They undertake, not merely to instruct him in philology, geometry, natural philosophy, but to form his religious opinions, and to watch

over his morals. He is to be bred a Churchman. At Cambridge he cannot graduate, at Oxford, I believe, he cannot matriculate, without declaring himself a Churchman. The College is a large family. An undergraduate is lodged either within the gates, or in some private house licensed and regulated by the academical authorities. He is required to attend public worship according to the forms of the Church of England several times every week. It is the duty of one officer to note the absence of young men from divine service, of another to note their absence from the public table, of another to report those who return home at unseasonably late hours. An academical police parades the streets at night to seize upon any unlucky reveller who may be found drunk or in bad company. There are punishments of various degrees for irregularities of conduct. Sometimes the offender has to learn a chapter of the Greek Testament; sometimes he is confined to his college; sometimes he is publicly reprimanded: for grave offences he is rusticated or expelled. Now, Sir, whether this system be good or bad, efficient or inefficient, I will not now inquire. This is evident, — that religious tests are perfectly in harmony with such a system. Christ Church and King's College undertake to instruct every young man who goes to them in the doctrines of the Church of England, and to see that he regularly attends the worship of the Church of England. Whether this ought to be so, I repeat, I will not now inquire: but, while it is so, nothing can be more reasonable than to require from the rulers of Christ Church and King's College some declaration that they are themselves members of the Church of England.

The character of the Scotch universities is alto-

gether different. There you have no functionaries resembling the Vice Chancellors and Proctors, the Heads of Houses, Tutors, and Deans, whom I used to cap at Cambridge. There is no chapel; there is no academical authority entitled to ask a young man whether he goes to the parish church or the Quaker meeting, to synagogue or to mass. With his moral conduct the university has nothing to do. The Principal and the whole Academical Senate cannot put any restraint, or inflict any punishment, on a lad whom they may see lying dead drunk in the High Street of Edinburgh. In truth, a student at a Scotch university is in a situation closely resembling that of a medical student in London. There are great numbers of youths in London who attend St. George's Hospital, or St. Bartholomew's Hospital. One of these youths may also go to Albemarle Street to hear Mr. Faraday lecture on chemistry, or to Willis's Rooms to hear Mr. Carlyle lecture on German literature. On the Sunday he goes perhaps to church, perhaps to the Roman Catholic chapel, perhaps to the Tabernacle, perhaps nowhere. None of the gentlemen whose lectures he has attended during the week has the smallest right to tell him where he shall worship, or to punish him for gambling in hells, or tippling in cider cellars. Surely we must all feel that it would be the height of absurdity to require Mr. Faraday and Mr. Carlyle to subscribe a confession of faith before they lecture; and in what does their situation differ from the situation of the Scotch professor?

In the peculiar character of the Scotch universities, therefore, I find a strong reason for the passing of this bill. I find a reason stronger still when I look at the terms of the engagements which exist between the English and Scotch nations.

Some gentlemen, I see, think that I am venturing on dangerous ground. We have been told, in confident tones, that, if we pass this bill, we shall commit a gross breach of public faith, we shall violate the Treaty of Union, and the Act of Security. With equal confidence, and with confidence much better grounded, I affirm that the Treaty of Union and the Act of Security not only do not oblige us to reject this bill, but do oblige us to pass this bill, or some bill nearly resembling this.

This proposition seems to be regarded by the Ministers as paradoxical: but I undertake to prove it by the plainest and fairest argument. I shall resort to no chicanery. If I did think that the safety of the commonwealth required that we should violate the Treaty of Union, I would violate it openly, and defend my conduct on the ground of necessity. It may, in an extreme case, be our duty to break our compacts. It never can be our duty to quibble them away. What I say is that the Treaty of Union, construed, not with the subtlety of a pettifogger, but according to the spirit, binds us to pass this bill or some similar bill.

By the Treaty of Union it was covenanted that no person should be a teacher or office bearer in the Scotch Universities who should not declare that he conformed to the worship and polity of the Established Church of Scotland. What Church was meant by the two contracting parties? What Church was meant, more especially, by the party to the side of which we ought always to lean, I mean the weaker party? Surely the Church established in 1707, when the Union took place. Is, then, the Church of Scotland at the present moment constituted, on all points which the members of that Church think essential, exactly as it was constituted in 1707? Most assuredly not.

Every person who knows anything of the ecclesiastical history of Scotland knows that, ever since the Reformation, the great body of the Presbyterians of that country have held that congregations ought to have a share in the appointment of their ministers. This principle is laid down most distinctly in the First Book of Discipline, drawn up by John Knox. It is laid down, though not quite so strongly, in the Second Book of Discipline, drawn up by Andrew Melville. And I beg gentlemen, English gentlemen, to observe that in Scotland this is not regarded as a matter of mere expediency. All staunch Presbyterians think that the flock is entitled, *jure divino*, to a voice in the appointment of the pastor, and that to force a pastor on a parish to which he is unacceptable is a sin as much forbidden by the Word of God as idolatry or perjury. I am quite sure that I do not exaggerate when I say that the highest of our high churchmen at Oxford cannot attach more importance to episcopal government and episcopal ordination than many thousands of Scotchmen, shrewd men, respectable men, men who fear God and honour the Queen, attach to this right of the people.

When, at the time of the Revolution, the Presbyterian worship and discipline were established in Scotland, the question of patronage was settled by a compromise, which was far indeed from satisfying men of extreme opinions, but which was generally accepted. An Act, passed at Edinburgh in 1690, transferred what we should call in England the advowsons from the old patrons to parochial councils, composed of the elders and the Protestant landowners. This system, however imperfect it might appear to such rigid Covenanters as Davie Deans and Gifted Gilfillan, worked

satisfactorily; and the Scotch nation seems to have been contented with its ecclesiastical polity when the Treaty of Union was concluded. By that treaty the ecclesiastical polity of Scotland was declared to be unalterable. Nothing, therefore, can be more clear than that the Parliament of Great Britain was bound by the most sacred obligations not to revive those rights of patronage which the Parliament of Scotland had abolished.

But, Sir, the Union had not lasted five years when our ancestors were guilty of a great violation of public faith. The history of that great fault and of its consequences is full of interest and instruction. The wrong was committed hastily, and with contumelious levity. The offenders were doubtless far from foreseeing that their offence would be visited on the third and the fourth generation; that we should be paying in 1845 the penalty of what they did in 1712.

In 1712, Sir, the Whigs, who were the chief authors of the Union, had been driven from power. The prosecution of Sacheverell had made them odious to the nation. The general election of 1710 had gone against them. Tory statesmen were in office. Tory squires formed more than five sixths of this House. The party which was uppermost thought that England had, in 1707, made a bad bargain, a bargain so bad that it could hardly be considered as binding. The guarantee so solemnly given to the Church of Scotland was a subject of loud and bitter complaint. The Ministers hated that Church much; and their chief supporters, the country gentlemen and country clergymen of England, hated it still more. Numerous petty insults were offered to the opinions, or, if you please, the prejudices of the Presbyterians. At length it was

determined to go further, and to restore to the old patrons those rights which had been taken away in 1690. A bill was brought into this House, the history of which you may trace in our Journals. Some of the entries are very significant. In spite of all remonstrances the Tory majority would not hear of delay. The Whig minority struggled hard, appealed to the Act of Union and the Act of Security, and insisted on having both those Acts read at the table. The bill passed this House, however, before the people of Scotland knew that it had been brought in. For there were then neither reporters nor railroads; and intelligence from Westminster was longer in travelling to Cambridge than it now is in travelling to Aberdeen. The bill was in the House of Lords before the Church of Scotland could make her voice heard. Then came a petition from a committee appointed by the General Assembly to watch over the interests of religion while the General Assembly itself was not sitting. The first name attached to that petition is the name of Principal Carstairs, a man who had stood high in the esteem and favour of William the Third, and who had borne a chief part in establishing the Presbyterian Church in Scotland. Carstairs and his colleagues appealed to the Act of Union, and implored the peers not to violate that Act. But party spirit ran high; public faith was disregarded; patronage was restored. To that breach of the Treaty of Union are to be directly ascribed all the schisms that have since rent the Church of Scotland.

I will not detain the House by giving a minute account of these schisms. It is enough to say that the law of patronage produced, first the secession of 1733 and the establishment of the Associate Synod, then the

secession of 1752 and the establishment of the Relief Synod, and finally the great secession of 1843 and the establishment of the Free Church. Only two years have elapsed since we saw, with mingled admiration and pity, a spectacle worthy of the best ages of the Church. Four hundred and seventy ministers resigned their stipends, quitted their manses, and went forth committing themselves, their wives, their children, to the care of Providence. Their congregations followed them by thousands, and listened eagerly to the Word of Life in tents, in barns, or on those hills and moors where the stubborn Presbyterians of a former generation had prayed and sung their psalms in defiance of the boot of Lauderdale and of the sword of Dundee. The rich gave largely of their riches. The poor contributed with the spirit of her who put her two mites into the treasury of Jerusalem. Meanwhile, in all the churches of large towns, of whole counties, the established clergy were preaching to empty benches. And of these secessions every one may be distinctly traced to that violation of the Treaty of Union which was committed in 1712.

This, Sir, is the true history of dissent in Scotland; and, this being so, how can any man have the front to invoke the Treaty of Union and the Act of Security against those who are devotedly attached to that system which the Treaty of Union and the Act of Security were designed to protect, and who are seceders only because the Treaty of Union and the Act of Security have been infringed? I implore gentlemen to reflect on the manner in which they and their fathers have acted towards the Scotch Presbyterians. First you bind yourselves by the most solemn obligations to maintain unaltered their Church as it was constituted in

1707. Five years later you alter the constitution of their Church in a point regarded by them as essential. In consequence of your breach of faith secession after secession takes place, till at length the Church of the State ceases to be the Church of the people. Then you begin to be squeamish. Then those articles of the Treaty of Union which, when they really were obligatory, you outrageously violated, now when they are no longer obligatory, now when it is no longer in your power to observe them according to the spirit, are represented as inviolable. You first, by breaking your word, turn hundreds of thousands of Churchmen into Dissenters, and then you punish them for being Dissenters, because, forsooth, you never break your word. If your consciences really are so tender, why do you not repeal the Act of 1712? Why do you not put the Church of Scotland back into the same situation in which she was in 1707? We have had occasion more than once in the course of this session to admire the casuistical skill of Her Majesty's Ministers. But I must say that even their scruple about slavegrown sugar, though that scruple is the laughing-stock of all Europe and all America, is respectable when compared with their scruple about the Treaty of Union. Is there the slightest doubt that every compact ought to be construed according to the sense in which it was understood by those who made it? And is there the slightest doubt as to the sense in which the compact between England and Scotland was understood by those who made it? Suppose that we could call up from their graves the Presbyterian divines who then sate in the General Assembly. Suppose that we could call up Carstairs; that we could call up Boston, the author of the Fourfold State; that we could relate to them the

history of the ecclesiastical revolutions which have, since their time, taken place in Scotland; and that we could then ask them, "Is the Established Church, or is the Free Church, identical with the Church which existed at the time of the Union?" Is it not quite certain what their answer would be? They would say, "Our Church, the Church which you promised to maintain unalterable, was not the Church which you protect, but the Church which you oppress. Our Church was the Church of Chalmers and Brewster, not the Church of Brice and Muir."

It is true, Sir, that the Presbyterian dissenters are not the only dissenters whom this bill will relieve. By the law, as it now stands, all persons who refuse to declare their approbation of the synodical polity, that is to say, all persons who refuse to declare that they consider episcopal government and episcopal ordination as, at least, matters altogether indifferent, are incapable of holding academical office in Scotland. Now, Sir, will any gentleman who loves the Church of England vote for maintaining this law? If, indeed, he were bound by public faith to maintain this law, I admit that he would have no choice. But I have proved, unless I greatly deceive myself, that he is not bound by public faith to maintain this law. Can he then conscientiously support the Ministers to-night? If he votes with them, he votes for persecuting what he himself believes to be the truth. He holds out to the members of his own Church lures to tempt them to renounce that Church, and to join themselves to a Church which he considers as less pure. We may differ as to the propriety of imposing penalties and disabilities on heretics. But surely we shall agree in thinking that we ought not to punish men for orthodoxy.

I know, Sir, that there are many gentlemen who dislike innovation merely as innovation, and would be glad always to keep things as they are now. Even to this class of persons I will venture to appeal. I assure them that we are not the innovators. I assure them that our object is to keep things as they are and as they have long been. In form, I own, we are proposing a change; but in truth we are resisting a change. The question really is, not whether we shall remove old tests, but whether we shall impose new ones. The law which we seek to repeal has long been obsolete. So completely have the tests been disused that, only the other day, the right honourable Baronet, the Secretary for the Home Department, when speaking in favour of the Irish Colleges Bill, told us that the Government was not making a rash experiment. "Our plan," he said, "has already been tried at Edinburgh and has succeeded. At Edinburgh the tests have been disused near a hundred years." As to Glasgow the gentlemen opposite can give us full information from their own experience. For there are at least three members of the Cabinet who have been Lords Rectors; the First Lord of the Treasury, and the Secretaries for the Home Department and the Colonial Department. They never took the test. They probably would not have taken it; for they are all Episcopalians. In fact they belong to the very class which the test was especially meant to exclude. The test was not meant to exclude Presbyterian dissenters; for the Presbyterian Church was not yet rent by any serious schism. Nor was the test meant to exclude the Roman Catholics; for against the Roman Catholics there was already abundant security. The Protestant Episcopalian was the enemy against whom it was, in 1707, thought pecul-

iarly necessary to take precautions. That those precautions have long been disused the three members of the Cabinet whom I mentioned can certify.

On a sudden the law, which had long slept a deep sleep, has been awakened, stirred up, and put into vigorous action. These obsolete tests are now, it seems, to be exacted with severity. And why? Simply because an event has taken place which makes them ten times as unjust and oppressive as they would have been formerly. They were not required while the Established Church was the Church of the majority. They are to be required solely because a secession has taken place which has made the Established Church the Church of the minority. While they could have done little mischief they were suffered to lie neglected. They are now to be used, because a time has come at which they cannot be used without fatal consequences.

It is impossible for me to speak without indignation of those who have taken the lead in the work of persecution. Yet I must give them credit for courage. They have selected as their object of attack no less a man than Sir David Brewster, Principal of the University of Saint Andrews. I hold in my hand the libel, as it is technically called, in which a Presbytery of the Established Church demands that Sir David, for the crime of adhering to that ecclesiastical polity which was guaranteed to his country by the Act of Union, shall be "removed from his office, and visited with such other censure or punishment as the laws of the Church enjoin, for the glory of God, the safety of the Church, and the prosperity of the University, and to deter others holding the same important office from committing the like offence in all time coming, but that

others may hear and fear the danger and detriment of following divisive courses." Yes; for the glory of God, the safety of the Church, and the prosperity of the University. What right, Sir, have the authors of such an instrument as this to raise their voices against the insolence and intolerance of the Vatican? The glory of God! As to that, I will only say that this is not the first occasion on which the glory of God has been made a pretext for the injustice of man. The safety of the Church! Sir, if, which God forbid, that Church is really possessed by the evil spirit which actuates this Presbytery; if that Church, having recently lost hundreds of able ministers and hundreds of thousands of devout hearers, shall, instead of endeavouring, by meekness, and by redoubled diligence, to regain those whom she has estranged, give them new provocation! if she shall sharpen against them an old law the edge of which has long rusted off, and which, when it was first made, was made not for her defence, but for theirs; then I pronounce the days of that Church numbered. As to the prosperity of the University, is there a corner of Europe where men of science will not laugh when they hear that the prosperity of the University of Saint Andrews is to be promoted by expelling Sir David Brewster on account of a theological squabble? The Professors of Edinburgh know better than this Presbytery how the prosperity of a seat of learning is to be promoted. There the Academic Senate is almost unanimous in favour of the bill. And indeed it is quite certain that, unless this bill, or some similar bill, be passed, a new college will soon be founded and endowed with that munificence of which the history of the Free Church furnishes so many examples. From the day on which such an university

arises, the old universities must decline. Now, they are practically national, and not sectarian, institutions. And yet, even now, the emoluments of a professorship are so much smaller than those which ability and industry can obtain in other ways, that it is difficult to find eminent men to fill the chairs. And if there be this difficulty now, when students of all religious persuasions attend the lectures, what is likely to happen when all the members of the Free Church go elsewhere for instruction? If there be this difficulty when you have all the world to choose professors from, what is likely to happen when your choice is narrowed to less than one half of Scotland? As the professorships become poorer, the professors will become less competent. As the professors become less competent, the classes will become thinner. As the classes become thinner, the professorships will again become poorer. The decline will become rapid and headlong. In a short time the lectures will be delivered to empty rooms: the grass will grow in the courts; and men not fit to be village dominies will occupy the chairs of Adam Smith and Dugald Stewart, of Reid and Black, of Playfair and Jamieson.

How do Her Majesty's Ministers like such a prospect as this? Already they have, whether by their fault or their misfortune I will not now inquire, secured for themselves an unenviable place in the history of Scotland. Their names are already inseparably associated with the disruption of her Church. Are those names to be as inseparably associated with the ruin of her Universities?

If the Government were consistent in error, some respect might be mingled with our disapprobation. But a Government which is guided by no principle; a

Government which, on the gravest questions, does not know its own mind twenty-four hours together; a Government which is against tests at Cork, and for tests at Glasgow, against tests at Belfast, and for tests at Edinburgh, against tests on the Monday, for them on the Wednesday, against them again on the Thursday, — how can such a Government command esteem or confidence? How can the Ministers wonder that their uncertain and capricious liberality fails to obtain the applause of the liberal party? What right have they to complain if they lose the confidence of half the nation without gaining the confidence of the other half?

But I do not speak to the Government. I speak to the House. I appeal to those who, on Monday last, voted with the Ministers against the test proposed by the honourable Baronet, the Member for North Devon. I know what is due to party ties. But there is a mire so black and so deep that no leader has a right to drag his followers through it. It is only forty-eight hours since honourable gentlemen were brought down to the House to vote against requiring the professors in the Irish Colleges to make a declaration of belief in the Gospel: and now the same gentlemen are expected to come down and to vote that no man shall be a professor in a Scottish College who does not declare himself a Calvinist and a Presbyterian. Flagrant as is the injustice with which the Ministers have on this occasion treated Scotland, the injustice with which they have treated their own supporters is more flagrant still. I call on all who voted with the Government on Monday to consider whether they can consistently and honourably vote with the Government to-night: I call on all members of the Church of England to ponder well

before they make it penal to be a member of the Church of England; and, lastly, I call on every man of every sect and party who loves science and letters, who is solicitous for the public tranquillity, who respects the public faith, to stand by us in this our hard struggle to avert the ruin which threatens the Universities of Scotland. I move that this bill be now read a second time.

A SPEECH

DELIVERED AT EDINBURGH ON THE 2D OF DECEMBER, 1845

The following Speech was delivered at a public meeting held at Edinburgh on the second of December, 1845, for the purpose of petitioning Her Majesty to open the ports of the United Kingdom for the free admission of corn and other food:—

My Lord Provost and Gentlemen, —

You will, I hope, believe that I am deeply sensible of the kindness with which you have received me. I only beg that you will continue to extend your indulgence to me, if it should happen that my voice should fail me in the attempt to address you. I have thought it my duty to obey your summons, though I am hardly equal to the exertion of public speaking, and though I am so situated that I can pass only a few hours among you. But it seemed to me that this was not an ordinary meeting or an ordinary crisis. It seemed to me that a great era had arrived, and that, at such a conjuncture, you were entitled to know the opinions and intentions of one who has the honour of being your representative.

With respect to the past, gentlemen, I have perhaps a little to explain, but certainly nothing to repent or to retract. My opinions, from the day on which I entered public life, have never varied. I have always considered the principle of protection to agriculture as a vicious principle. I have always thought that this vicious principle took, in the Act of 1815, in the Act

of 1828, and in the Act of 1842, a singularly vicious form. This I declared twelve years ago, when I stood for Leeds: this I declared in May, 1839, when I first presented myself before you; and when, a few months later, Lord Melbourne invited me to become a member of his Government, I distinctly told him that, in office or out of office, I must vote for the total repeal of the corn laws.

But in the year 1841 a very peculiar crisis arrived. There was reason to hope that it might be possible to effect a compromise, which would not indeed wholly remove the evils inseparable from a system of protection, but which would greatly mitigate them. There were some circumstances in the financial situation of the country which led those who were then the advisers of the Crown to hope that they might be able to get rid of the sliding scale, and to substitute for it a moderate fixed duty. We proposed a duty of eight shillings a quarter on wheat. The Parliament refused even to consider our plan. Her Majesty appealed to the people. I presented myself before you; and you will bear me witness that I disguised nothing. I said, "I am for a perfectly free trade in corn: but I think that, situated as we are, we should do well to consent to a compromise. If you return me to Parliament, I shall vote for the eight shilling duty. It is for you to determine whether, on those terms, you will return me or not." You agreed with me. You sent me back to the House of Commons on the distinct understanding that I was to vote for the plan proposed by the Government of which I was a member. As soon as the new Parliament met, a change of administration took place. But it seemed to me that it was my duty to support, when out of place, that proposition to which

I had been a party when I was in place. I therefore did not think myself justified in voting for a perfectly free trade, till Parliament had decided against our fixed duty, and in favour of Sir Robert Peel's new sliding scale. As soon as that decision had been pronounced, I conceived that I was no longer bound by the terms of the compromise which I had, with many misgivings, consented to offer to the agriculturists, and which the agriculturists had refused to accept. I have ever since voted in favour of every motion which has been made for the total abolition of the duties on corn.

There has been, it is true, some difference of opinion between me and some of you. We belonged to the same camp: but we did not quite agree as to the mode of carrying on the war. I saw the immense strength of the interests which were arrayed against us. I saw that the corn monopoly would last forever if those who defended it were united, while those who assailed it were divided. I saw that many men of distinguished abilities and patriotism, such men as Lord John Russell, Lord Howick, Lord Morpeth, were unwilling to relinquish all hope that the question might be settled by a compromise such as had been proposed in 1841. It seemed to me that the help of such men was indispensable to us, and that, if we drove from us such valuable allies, we should be unable to contend against the common enemy. Some of you thought that I was timorous, and others that I was misled by party spirit or by personal friendship. I still think that I judged rightly. But I will not now argue the question. It has been set at rest forever, and in the best possible way. It is not necessary for us to consider what relations we ought to maintain with the party which is for a moderate fixed duty. That party has disappeared.

Time, and reflection, and discussion, have produced their natural effect on minds eminently intelligent and candid. No intermediate shades of opinion are now left. There is no twilight. The light has been divided from the darkness. Two parties are ranged in battle array against each other. There is the standard of monopoly. Here is the standard of free trade; and by the standard of free trade I pledge myself to stand firmly.

Gentlemen, a resolution has been put into my hands which I shall move with the greatest pleasure. That resolution sets forth in emphatic language a truth of the highest importance, namely, that the present corn laws press with especial severity on the poor. There was a time, gentlemen, when politicians were not ashamed to defend the corn laws merely as contrivances for putting the money of the many into the pockets of the few. We must — so these men reasoned — have a powerful and opulent class of grandees: that we may have such grandees, the rent of land must be kept up: and that the rent of land may be kept up, the price of bread must be kept up. There may still be people who think thus: but they wisely keep their thoughts to themselves. Nobody now ventures to say in public that ten thousand families ought to be put on short allowance of food in order that one man may have a fine stud and a fine picture gallery. Our monopolists have changed their ground. They have abandoned their old argument for a new argument much less invidious, but, I think, rather more absurd. They have turned philanthropists. Their hearts bleed for the misery of the poor labouring man. They constantly tell us that the cry against the corn laws has been raised by capitalists; that the capitalist

wishes to enrich himself at the expense both of the landed gentry and of the working people; that every reduction of the price of food must be followed by a reduction of the wages of labour; and that, if bread should cost only half what it now costs, the peasant and the artisan would be sunk in wretchedness and degradation, and the only gainers would be the mill-owners and the moneychangers. It is not only by landowners, it is not only by Tories, that this nonsense has been talked. We have heard it from men of a very different class, from demagogues who wish to keep up the corn laws, merely in order that the corn laws may make the people miserable, and that misery may make the people turbulent. You know how assiduously those enemies of all order and all property have laboured to deceive the working man into a belief that cheap bread would be a curse to him. Nor have they always laboured in vain. You remember that once, even in this great and enlightened city, a public meeting called to consider the corn laws was disturbed by a deluded populace. Now, for my own part, whenever I hear bigots who are opposed to all reform, and anarchists who are bent on universal destruction, join in the same cry, I feel certain that it is an absurd and mischievous cry; and surely never was there a cry so absurd and mischievous as this cry against cheap loaves. It seems strange that Conservatives, people who profess to hold new theories in abhorrence, people who are always talking about the wisdom of our ancestors, should insist on our receiving as an undoubted truth a strange paradox never heard of from the creation of the world till the nineteenth century. Begin with the most ancient book extant, the Book of Genesis, and come down to the parliamentary debates of

1815, and I will venture to say that you will find that, on this point, the party which affects profound reverence for antiquity and prescription has against it the unanimous voice of thirty-three centuries. If there be anything in which all peoples, nations, and languages, Jews, Greeks, Romans, Italians, Frenchmen, Englishmen, have agreed, it has been this, that the dearness of food is a great evil to the poor. Surely, the arguments which are to counterbalance such a mass of authority ought to be weighty. What then are those arguments? I know of only one. If any gentleman is acquainted with any other, I wish that he would communicate it to us; and I will engage that he shall have a fair and full hearing. The only argument that I know of is this, that there are some countries in the world where food is cheaper than in England, and where the people are more miserable than in England. Bengal has been mentioned. But Poland is the favourite case. Whenever we ask why there should not be a free trade in corn between the Vistula and the Thames, the answer is, "Do you wish our labourers to be reduced to the condition of the peasants of the Vistula?" Was such reasoning ever heard before? See how readily it may be turned against those who use it. Corn is cheaper at Cincinnati than here; but the wages of the labourer are much higher at Cincinnati than here: therefore, the lower the price of food, the higher the wages will be. This reasoning is just as good as the reasoning of our adversaries: that is to say, it is good for nothing. It is not one single cause that makes nations either prosperous or miserable. No friend of free trade is such an idiot as to say that free trade is the only valuable thing in the world; that religion, government, police,

education, the administration of justice, public expenditure, foreign relations, have nothing whatever to do with the wellbeing of nations; that people sunk in superstition, slavery, barbarism, must be happy if they have only cheap food. These gentlemen take the most unfortunate country in the world, a country which, while it had an independent government, had the very worst of independent governments: the sovereign a mere phantom; the nobles defying him and quarrelling with each other; the great body of the population in a state of servitude; no middle class; no manufactures; scarcely any trade, and that in the hands of Jew pedlars. Such was Poland while it was a separate kingdom. But foreign invaders came down upon it. It was conquered: it was reconquered: it was partitioned: it was repartitioned: it is now under a government of which I will not trust myself to speak. This is the country to which these gentlemen go to study the effect of low prices. When they wish to ascertain the effect of high prices, they take our own country; a country which has been during many generations the best governed in Europe; a country where personal slavery has been unknown during ages; a country which enjoys the blessings of a pure religion, of freedom, of order; a country long secured by the sea against invasion; a country in which the oldest man living has never seen a foreign flag except as a trophy. Between these two countries our political philosophers institute a comparison. They find the Briton better off than the Pole; and they immediately come to the conclusion that the Briton is so well off because his bread is dear, and the Pole is ill off because his bread is cheap. Why, is there a single good which in this way I could not prove to be an

evil, or a single evil which I could not prove to be a good? Take lameness. I will prove that it is the best thing in the world to be lame: for I can show you men who are lame, and yet much happier than many men who have the full use of their legs. I will prove health to be a calamity. For I can easily find you people in excellent health whose fortunes have been wrecked, whose character has been blasted, and who are more wretched than many invalids. But is that the way in which any man of common sense reasons? No; the question is: Would not the lame man be happier if you restored to him the use of his limbs? Would not the healthy man be more wretched if he had gout and rheumatism in addition to all his other calamities? Would not the Englishman be better off if food were as cheap here as in Poland? Would not the Pole be more miserable if food were as dear in Poland as here? More miserable indeed he would not long be; for he would be dead in a month.

It is evident that the true way of determining the question which we are considering, is to compare the state of a society when food is cheap with the state of that same society when food is dear; and this is a comparison which we can very easily make. We have only to recall to our memory what we have ourselves seen within the last ten years. Take the year 1835. Food was cheap then; and the capitalist prospered greatly. But was the labouring man miserable? On the contrary, it is notorious that work was plentiful, that wages were high, that the common people were thriving and contented. Then came a change like that in Pharaoh's dream. The thin ears had blighted the full ears; the lean kine had devoured the fat kine; the days of plenty were over; and the days of dearth

had arrived. In 1841 the capitalist was doubtless distressed. But will anybody tell me that the capitalist was the only sufferer, or the chief sufferer? Have we forgotten what was the condition of the working people in that unhappy year? So visible was the misery of the manufacturing towns that a man of sensibility could hardly bear to pass through them. Everywhere he found filth and nakedness, and plaintive voices, and wasted forms, and haggard faces. Politicians who had never been thought alarmists began to tremble for the very foundations of society. First the mills were put on short time. Then they ceased to work at all. Then went to pledge the scanty property of the artisan; first his little luxuries, then his comforts, then his necessaries. The hovels were stripped till they were as bare as the wigwam of a Dogribbed Indian. Alone, amidst the general misery, the shop with the three golden balls prospered, and was crammed from cellar to garret with the clocks and the tables, and the kettles, and the blankets, and the bibles of the poor. I remember well the effect which was produced in London by the unwonted sight of the huge pieces of cannon which were going northward to overawe the starving population of Lancashire. Those evils days passed away. Since that time we have again had cheap bread. The capitalist has been a gainer. It was fit that he should be a gainer. But has he been the only gainer? Will those who are always telling us that the Polish labourer is worse off than the English labourer venture to tell us that the English labourer was worse off in 1844 than in 1841? Have we not everywhere seen the goods of the poor coming back from the magazine of the pawnbroker? Have we not seen in the house of the working man, in his

clothing, in his very looks as he passed us in the streets, that he was a happier being? As to his pleasures, and especially as to the most innocent, the most salutary, of his pleasures, ask your own most intelligent and useful fellow citizen, Mr. Robert Chambers, what sale popular books had in the year 1841, and what sale they had last year. I am assured that, in one week of 1845, the sums paid in wages within twenty miles of Manchester exceeded by a million and a half the sums paid in the corresponding week of 1841.

Gentlemen, both the capitalist and the labourer have been gainers, as they ought to have been gainers, by the diminution in the price of bread. But there is a third party, which ought not to have gained by that diminution, and yet has gained very greatly by it; and that party is Her Majesty's present Government. It is for the interest of rulers that those whom they rule should be prosperous. But the prosperity which we have lately enjoyed was a prosperity for which we were not indebted to our rulers. It came in spite of them. It was produced by the cheapness of that which they had laboured to render dear. Under pretence of making us independent of foreign supply, they have established a system which makes us dependent in the worst possible way. As my valued friend, the Lord Provost,[1] has justly said, there is a mutual dependence among nations of which we cannot get rid. That Providence has assigned different productions to different climates is a truth with which everybody is familiar. But this is not all. Even in the same climate different productions belong to different stages of civilisation. As one latitude is favourable to the

[1] Mr. Adam Black.

vine and another to the sugar cane, so there is, in the same latitude, a state of society in which it is desirable that the industry of men should be almost entirely directed towards the cultivation of the earth, and another state of society in which it is desirable that a large part of the population should be employed in manufactures. No dependence can be conceived more natural, more salutary, more free from everything like degradation than the mutual dependence which exists between a nation which has a boundless extent of fertile land, and a nation which has a boundless command of machinery; between a nation whose business is to turn deserts into corn fields, and a nation whose business is to increase tenfold by ingenious processes the value of the fleece and of the rude iron ore. Even if that dependence were less beneficial than it is, we must submit to it; for it is inevitable. Make what laws we will, we must be dependent on other countries for a large part of our food. That point was decided when England ceased to be an exporting country. For, gentlemen, it is demonstrable that none but a country which ordinarily exports food can be independent of foreign supplies. If a manufacturer determines to produce ten thousand pair of stockings, he will produce the ten thousand, and neither more nor less. But an agriculturist cannot determine that he will produce ten thousand quarters of corn, and neither more nor less. That he may be sure of having ten thousand quarters in a bad year, he must sow such a quantity of land that he will have much more than ten thousand in a good year. It is evident that, if our island does not in ordinary years produce many more quarters than we want, it will in bad years produce fewer quarters than we want. And it is equally evident that our cultiva-

tors will not produce more quarters of corn than we want, unless they can export the surplus at a profit. Nobody ventures to tell us that Great Britain can be ordinarily an exporting country. It follows that we must be dependent; and the only question is, Which is the best mode of dependence? That question it is not difficult to answer. Go to Lancashire; see that multitude of cities, some of them equal in size to the capitals of large kingdoms. Look at the warehouses, the machinery, the canals, the railways, the docks. See the stir of that hive of human beings busily employed in making, packing, conveying stuffs which are to be worn in Canada and Caffraria, in Chili and Java. You naturally ask, How is this immense population, collected on an area which will not yield food for one tenth part of them, to be nourished? But change the scene. Go beyond the Ohio, and there you will see another species of industry, equally extensive and equally flourishing. You will see the wilderness receding fast before the advancing tide of life and civilisation, vast harvests waving round the black stumps of what a few months ago was a pathless forest, and cottages, barns, mills, rising amidst the haunts of the wolf and the bear. Here is more than enough corn to feed the artisans of our thickly peopled island; and most gladly would the grower of that corn exchange it for a Sheffield knife, a Birmingham spoon, a warm coat of Leeds woollen cloth, a light dress of Manchester cotton. But this exchange our rulers prohibit. They say to our manufacturing population, "You would willingly weave clothes for the people of America, and they would gladly sow wheat for you; but we prohibit this intercourse. We condemn both your looms and their ploughs to inaction. We will compel you to pay

a high price for a stinted meal. We will compel those who would gladly be your purveyors and your customers to be your rivals. We will compel them to turn manufacturers in self defence ; and when, in close imitation of us, they impose high duties on British goods for the protection of their own produce, we will, in our speeches and despatches, express wonder and pity at their strange ignorance of political economy."

Such has been the policy of Her Majesty's Ministers ; but it has not yet been fairly brought to the trial. Good harvests have prevented bad laws from producing their full effect. The Government has had a run of luck ; and vulgar observers have mistaken luck for wisdom. But such runs of luck do not last forever. Providence will not always send the rain and the sunshine just at such a time and in such a quantity as to save the reputation of shortsighted statesmen. There is too much reason to believe that evil days are approaching. On such a subject it is a sacred duty to avoid exaggeration ; and I shall do so. I observe that the writers — wretched writers they are — who defend the present Administration assert that there is no probability of a considerable rise in the price of provisions, and that the Whigs and the Anti-Corn-Law League are busily engaged in circulating false reports for the vile purpose of raising a panic. Now, gentlemen, it shall not be in the power of anybody to throw any such imputation on me ; for I shall describe our prospects in the words of the Ministers themselves. I hold in my hand a letter in which Sir Thomas Freemantle, Secretary for Ireland, asks for information touching the potato crop in that country. His words are these. " Her Majesty's Government is seeking to learn the opinion of judges and well informed persons

in every part of Ireland regarding the probability of the supply being sufficient for the support of the people during the ensuing winter and spring, provided care be taken in preserving the stock, and economy used in its consumption." Here, you will observe, it is taken for granted that the supply is not sufficient for a year's consumption: it is taken for granted that, without care and economy, the supply will not last to the end of the spring; and a doubt is expressed whether, with care and economy, the supply will last even through the winter. In this letter the Ministers of the Crown tell us that famine is close at hand; and yet, when this letter was written, the duty on foreign corn was seventeen shillings a quarter. Is it necessary to say more about the merits of the sliding scale? We were assured that this wonderful piece of machinery would secure us against all danger of scarcity. But unhappily we find that there is a hitch; the sliding scale will not slide: the Ministers are crying "Famine," while the index which they themselves devised is still pointing to "Plenty."

And thus, Sir, I come back to the resolution which I hold in my hand. A dear year is before us. The price of meal is already, I believe, half as much again as it was a few months ago. Again, unhappily, we are able to bring to the test of facts the doctrine, that the dearness of food benefits the labourer and injures only the capitalist. The price of food is rising. Are wages rising? On the contrary, they are falling. In numerous districts the symptoms of distress are already perceptible. The manufacturers are already beginning to work short time. Warned by repeated experience, they know well what is coming, and expect that 1846 will be a second 1841.

If these things do not teach us wisdom, we are past all teaching. Twice in ten years we have seen the price of corn go up; and, as it went up, the wages of the labouring classes went down. Twice in the same period we have seen the price of corn go down; and, as it went down, the wages of the labouring classes went up. Surely such experiments as these would in any science be considered as decisive.

The prospect, gentlemen, is, doubtless, gloomy. Yet it has its bright part. I have already congratulated you on the important fact that Lord John Russell, and those who have hitherto acted on this subject in concert with him, have given up all thoughts of a fixed duty. I have to congratulate you on another fact not less important. I am assured that the working people of the manufacturing districts have at last come to understand this question. The sharp discipline which they have undergone has produced this good effect, that they will never again listen to any orator who shall have the effrontery to tell them that their wages rise and fall with the price of the loaf. Thus we shall go into the contest under such leading and with such a following as we never had before. The best part of the aristocracy will be at our head. Millions of labouring men, who had been separated from us by the arts of impostors, will be in our rear. So led and so followed, we may, I think, look forward to victory, if not in this, yet in the next Parliament. But, whether our triumph be near or remote, I assure you that I shall not fail, as regards this question, to prove myself your true representative. I will now, my Lord, put into your hands this resolution, "That the present corn law presses with especial severity on the poorer classes."

APPENDIX

TO

LORD MACAULAY'S SPEECHES.

THE TREATY OF WASHINGTON.

A SPEECH DELIVERED IN THE HOUSE OF COMMONS ON THE 21ST OF MARCH, 1843.

On Tuesday, the 21st of March, 1843, Viscount Palmerston, in pursuance of notice, moved the House of Commons for copies or extracts of the "Communications which have taken place between the British Government and Lord Ashburton, their plenipotentiary at Washington, on the subject of the treaty signed at Washington on the 9th of August last." On this motion, the honourable Viscount made an elaborate speech, in which he claimed to have shown good grounds for asserting that the negotiations which led to the treaty were ill-conducted, that the treaty itself was disadvantageous, and that by more judicious management far better terms might have been obtained.

Sir Robert Peel, in reply, begged the House not to be misled by a plausible motion calling for further papers; but if they were satisfied that the conduct of the Government and its representative, Lord Ashburton, had been influenced by pure motives — had been wise and just — had contributed to lay the foundation of a better understanding with the United States — he entreated them to mark their opinion in favor of peace by negativing the motion.

At this stage of the debate, Mr. Macaulay made the speech that follows.

Sir H. Douglas [member from Liverpool], ex-governor of New Brunswick (1823–1831), defended the treaty as a satisfactory arrangement. Notwithstanding all the sympathy that had been expressed by the honourable member from Edinburgh [Mr. Macaulay] for the inhabitants of the Madawaska settlement, to the south of the St. John's, he observed that they had been, at least provisionally, turned over to the United States like serfs, by permitting the United States to usurp a military possession of the country, which it was clear would never be relinquished.

Debate adjourned, at twelve o'clock.

I hope, sir, I shall find credit with the House when I state, with all earnestness, that the few observations which, in the discharge of my duty to my country, I feel bound to offer on this occasion, are in no respect dictated by any feelings of either national or personal animosity. The feeling of national animosity is in all cases odious, but such animosity on the part of Eng-

lishmen towards the people of the United States may justly be termed unnatural. Whatever intercourse I have had with the citizens of the United States has been uniformly an interchange of courtesies and kind offices; and as a public man, and as an Englishman, I can think of that great community only as one composed of persons whose veins are full of our blood, whose minds are nourished by our literature, and whose most valuable institutions are derived from our own. As a public man, again, I cannot but reflect that while peace is in all quarters the greatest of blessings, while war in any part of the world must be regarded as one of the greatest of public calamities, a war with the United States would be of all the calamities that could befall this country the most disastrous, for it would unite with all the horrors of foreign war many of the peculiar enormities of civil conflict: it would interrupt that salutary connection which exists between the two countries; it would produce frightful disturbance of trade; it would involve in extensive ruin private families; and it would obstruct, to a greater extent than any other event I can well conceive, the great interests of humanity and civilization. Having protested that towards the United States I entertain no feeling of ill-will, I can with equal truth make the same declaration with respect to the noble individual whose conduct is peculiarly under discussion; and I cannot easily conceive, from anything I have seen or heard, that Lord Ashburton can, in this House or elsewhere, have any personal enemy. I readily and cordially admit the extent of his information; and I sincerely admire those eminent abilities which I have seen displayed in this House with great profit and advantage to the public, and from which I have myself derived pleasure and instruction. I readily admit his integrity, and his many amiable qualities; and if in anything I may say, I should, with reference to that noble Lord, exceed the limits of the strictest decorum, or the rules of parliamentary debate, I can only say with regard to anything I may so utter, that I beforehand wish it unsaid. But his Lordship knows, and those connected with him know, that it is the duty of public men to scrutinize most strictly the conduct of the responsible servants of the Crown; and they know that on no occasion could it be more important to do so than with reference to the subject now under discussion. Indeed, after the declaration which has been made by the right honourable Baronet (Sir

R. Peel), it is more important to scrutinize the conduct of the Government with respect to this question than at first sight appeared necessary. The right honourable Baronet takes upon himself, and upon the Government of which he is the head, the entire and complete responsibility of the matter and manner of this important negotiation. Now this negotiation is not only important in itself, on account of the interests at stake, but in another point of view it is of great importance. It is the first great negotiation which since the last change of Ministry has been concluded between England and any foreign power. Coming into office after exclusion from power, with a short interval, for, I think, upwards of ten years, the Members of the present Government found that our relations with the United States presented one of the most important subjects to which their attention could be directed. They considered the subject, they state, with extreme attention; they selected, with the greatest care, a negotiator for the purpose of carrying their views into effect; they approve, in every respect, of his conduct. The fruits of this negotiation lie before us; and we must consider ourselves as inquiring, not merely whether this treaty is a just and proper one — not merely whether this correspondence be honourable to the abilities and public spirit of Lord Ashburton — but, seeing how probable it is that the present Government will for a considerable time retain their position in power — whether their policy be pacific in truth, or pacific only in show, and whether, on the system they seem at present inclined to pursue, it is probable that the honour and interests of this country are likely to be promoted. I shall commence by making a concession which I think the right honourable Baronet opposite will admit to be a large one, and for making which, I fear, the noble Lord near me (Lord Palmerston) may consider that I merit some degree of blame. Though I am firmly convinced, that if this question were tried as a mere matter of right, we have, with regard to the boundary, clearly ceded too much; though I think we have ceded not only that which we had a right to keep, but that which it would in many respects have been advantageous to us to have retained; though I think the negotiations, in many of the points mentioned by my noble friend, have been on that subject most unskilfully conducted; yet I feel, and I have always felt, most strongly the immense importance of arriving at a settlement of

this question. I have always felt that when a subject has been agitated during so many years — when it has excited so much exasperation — when, on both sides, there is so firm a conviction of the justice of their respective claims — something must be sacrificed. It is necessary, I admit, under such circumstances, that a compromise should be made. I cannot better express my opinion on this subject than by adopting the language of the honourable Member for Halifax at the beginning of the present session : —

"I am ready to admit (my honourable friend said), that if the causes of difference between the two countries are fairly adjusted, if the arrangements are such as to close the present, and preclude future causes of dispute, I am not one of those who would attach much importance to a few square miles of territory more or less; but then I must have a distinct assurance that those causes of difference have actually been removed."

The conditions, however, which I think myself entitled to demand, when we have been ceding what the right honourable Baronet opposite admits, if I understand him, to be our right, are these three : First, that the dignity and honour of this country shall be in no respect compromised by the manner in which the arrangement shall be made. To that condition, if I correctly understand the right honourable Baronet, he will, I doubt not, give his assent. The second condition I must require is, that the treaty purchased by this sacrifice of our rights shall be a treaty which either removes all causes of difference, or if it does not effect that, at least does not place us with regard to any of them in a decidedly worse position than that in which we stood before the treaty was concluded ; and lastly, I am entitled to demand that this treaty shall be one which has produced on both sides kindly and cordial feelings, and which has rendered the recurrence of any difficulties such as those which preceded it in the highest degree improbable. I regret to say that I entertain very grave doubts — I may say more than doubts — whether the negotiations, and the treaty which has resulted from them, will be found to fulfil these conditions. First, then, as to the question of national honour. I may say that it is impossible to read through this correspondence, to compare the letters, without exception, of the English Plenipotentiary with those which emanated from the American Secretary, without being struck with a certain humble, caressing, wheedling tone which pervades them, and which seems to me utterly inconsistent with

the dignity of the office which Lord Ashburton occupied. Many cases, which I could cite, occur to me; some of them — indeed most of them — appear slight at the first glance; but, as Lord Bacon says, —

"A straw will serve to show you which way the wind blows."

I think it was highly improper on the part of Lord Ashburton to state to the Government of the United States, as a reason why he should be especially trusted by them, and why they should act with more confidence and cordiality towards him, that he had opposed the last war with America. I think that was not the course an English ambassador ought to have pursued. I disapprove of that war; it occurred before my time; but as far as I have obtained information on the subject, I think that those who joined Lord Ashburton in opposing that war acted a wise and patriotic part. But I conceive that when a person receives the Queen's command to go forth as her representative, he is in that capacity the organ of the Government, and he is not entitled to ask the favour and confidence of the power to which he is accredited on the ground that his opinion is opposed to the line of conduct which has been pursued by his Government and by his Sovereign, that conduct having been sanctioned and supported by the voice of the Houses of Lords and Commons. Can any honourable gentleman furnish me with a diplomatic precedent for such conduct? I remember none, although I confess my own diplomatic studies have not been so extensive as I could wish. I do remember, however, the negotiations of 1806, and if Mr. Fox had chosen to do so, he might then have made a merit with the French Government of his constant and determined opposition to the war with France. He might have said in his letter to Talleyrand, "I have been the firm opponent of war. When every one was clamouring for war against France, and when the Opposition dwindled down to thirty or forty members, I cried, 'Peace, peace, peace!'" But Mr. Fox — the greatest diplomatist, Lord Grenville said, who ever lived — knew too well what pertained to his duty as a public man, and never by one word did he repudiate or disclaim any act of his predecessors, or make any distinction between himself and Mr. Pitt. In this correspondence, however, Lord Ashburton expresses his strong disapproval of the last war. I will take one document of some

importance; and I shall be surprised if I do not satisfy the House that a stain has been inflicted on the character of this country such as it will be very difficult to parallel in the whole history of diplomacy. With respect to the Madawaska settlement, Lord Ashburton says: —

"The history and circumstances of this settlement are well known to you. It was originally formed from the French establishments in Acadie, and has been uninterruptedly under French or British dominion, and never under any other laws. The inhabitants have professed great apprehensions of being surrendered by Great Britain, and have lately sent an earnest petition to the Queen, deprecating that being done. Further, this settlement forms one united community, all connected together, and living some on one and some on the other side of the river, which forms a sort of high road between them. It seems self-evident that no more inconvenient line of boundary could well be drawn than one which divides in two an existing municipality — inconvenient as well to the inhabitants themselves as to the authorities under which they are to live. There would be evident hardship, I might say cruelty, in separating this now happy and contented village."

Now, I will put it to the House, can any obligation be stronger than that which lies on a Sovereign to keep under his Government — except where he is bound by justice, or compelled by overpowering force, to cede a territory — all those subjects who are attached to his sway? The cession of a territory, the inhabitants of which implore you to retain them under your Government, is the very last calamity which conquest brings on a nation. The answer returned to this communication by the United States Government is in a very different tone. Indeed, the whole tone of the correspondence on the part of the United States is firm, resolute, vigilant, and unyielding: but I must do them the justice to say, that except in this single instance, there is no case in which offence can be justly taken.

But in this case I cannot acquit the Secretary of State of the United States of having offered something in the nature of a serious affront — I hope it was not intentional — to the English Government. The Secretary of the United States informs Lord Ashburton, in his reply to the noble Lord's letter, that he

"Forbears from going into the consideration of the mass of other arguments and proofs, for the same reasons which restrain your Lordship from entering into an extended discussion of the question, as well as because your Lordship will have an opportunity of perusing a paper, addressed to me by the commissioners of Maine, which strongly presents the subject, on other grounds, and in other lights."

I think that, under the circumstances, I am entitled to say, that Mr. Webster adopts the opinions expressed by the Maine commissioners. He says distinctly that he will not enter into the arguments urged by Lord Ashburton, because he sends him a paper drawn up by the commissioners of Maine, which presents the question in a strong point of view. Now, see in what manner the Maine commissioners address themselves to Lord Ashburton's argument about the feeling of the people of Madawaska. They pronounce an invective on the tyranny which they allege England has exercised towards that very people. They say: —

"The hard lot and sufferings of these people and of their fathers give them a claim to our sympathies. The atrocious cruelties practised upon their ancestors are matters of history. The appalling details of them are among their traditions. The fathers and mothers have taught them to their children. When fleeing from their oppressors in 1785, they settled down in the wilderness of Madawaska, they believed and understood themselves to be within the limits and jurisdiction of the United States, a people of whom France had been the friend and ally in the war which had just terminated in their independence, and who was still the friend and ally of France in peace. Their history since that period has lost little of its interest. Too few in number, too weak in resources, too remote to expect or receive aid, they submitted to whatever master assumed authority over them. With a knowledge of their history, and the wrongs they and their ancestors have suffered, it will be difficult for the people of Maine to bring themselves into the belief that these people are opposed to living under the mild and gentle sway of our free institutions. It will be equally difficult for the people of Maine to satisfy themselves that it is only from a lively and disinterested sympathy for these poor Frenchmen that the Government of Great Britain is so solicitous to retain possession of the south bank of the St. John, extending from the due north line more than fifty miles up to Fish River."

This is the paper transmitted by Mr. Webster to Lord Ashburton, in answer to his Lordship's earnest appeal in behalf of the people of Madawaska! It avers distinctly that the British Government had alienated the people of Madawaska by its cruel conduct towards them, and insinuates broadly that Lord Ashburton's declared sympathy for them was nothing but hypocrisy. I venture to say, that if any such paper had been addressed by Lord Ashburton to Mr. Webster, a sharp reply would instantly have been returned to it. Any one who looks at the whole of this correspondence cannot fail to observe a marked contrast between the tones of the representatives of the two Governments. What was Lord Ashburton's reply to the passage which I have

read? Nothing but an expression of profound respect for the gentlemen of Maine. His Lordship says, in his next letter to Mr. Webster: —

"If the observations contained in my note of the 13th ultimo have given rise to these consequences, I much regret it; and I would now pass over all these more than useless discussions, and proceed at once to notice the proposals you make, if I were not apprehensive that my so doing might be construed into some want of respect for the parties from whom these observations have proceeded."

Then comes an observation respecting the people of Madawaska: —

"It is sufficiently explained in my plan for a settlement, why I was anxious not to divide, in two parts, by our new line of boundary, the Madawaska settlement; and I am sorry to say, that the information I have since received, both as to local circumstances and the anxiety of the people themselves, tends strongly to confirm my impressions."

That is to say, as he had said at first, that it would be a cruel act — that it would be "an evident hardship," to separate these people; that he should consider such a separation, by placing them under separate laws and governments, "a most harsh proceeding" — that it would be making aliens of a people who wished to remain under the protection of the British Crown; but still — the noble Lord in effect goes on to say — but still, as the commissioners of Maine say that it is hypocrisy in the British Government to say that these people wish to remain under our protection, you may take them. That is what Lord Ashburton says. And then Lord Ashburton puts the matter on the ground of humanity, and says: —

"I had hoped that the other equivalents which I had offered, combined with the sense entertained by the Government of the United States of the pressing importance of the case, on the ground of humanity, would have been sufficient for the purpose I so anxiously desired; but perceiving from your note, as well as from personal conversation, that concession on this point is insisted upon, I might be disposed to consider, whether my anxious desire to arrive at a friendly settlement would not justify me in yielding, however reluctantly, if the latter part of your proposals did not, if finally persevered in, forbid all hope of any settlement whatever."

This was the miserable result. After being insulted by the commissioners of Maine, and told that the English Government was guilty of nothing but hypocrisy in pretending to feel any anxiety for the people of Madawaska, Lord Ashburton quietly

gives them up! Now, if it was necessary to give these people up, was it necessary for the English Government to degrade itself by going to another government, and asking to be permitted to retain sovereignty over them, on the ground of humanity? Why should the Queen of England ask leave to retain control over her subjects on the ground of humanity? I can conceive only two grounds on which her Majesty's Government could be justified in resorting to the plea of humanity. If the United States had a clear right to the territory, we might with propriety have begged them to forego their claim on the score of humanity. Again, we might have had recourse to the same plea if we had suffered some terrible reverse in war, as we know that after the battle of Jena the Queen of Prussia almost went down on her knees, in order to obtain the single town of Magdeburgh; but, I ask, was there anything in the relations subsisting between England and the United States to make it imperative on us to say, "We have a right to these people; they are clinging to us for protection; we wish to retain them under our Sovereign's Government; pray, for the sake of humanity, let us do so." If the thing was to be done, if the Government had, after all, made up its mind to sacrifice them, why exhibit itself before all the world in the degrading position of a supplicant to the United States on the score of humanity. The greater part of this negotiation was carried on generally at conferences and discussions; very little of it was conducted by means of writing. One of the most important articles in the treaty is the 8th, which appears to have been negotiated without a single line of correspondence having passed between Lord Ashburton and Mr. Webster. Now, if it was necessary that this country should submit to the disgrace which I maintain is involved in the Madawaska transaction, why was not that also decided by oral negotiation? Why was our humiliation paraded before all the world in this correspondence? Far be it from me to recommend anything like a contumelious policy towards other nations; far be it from me to advocate the adoption of a bullying policy; but I do say that the self-respect which exacts from nations, with whom we are treating, courteous conduct, is essential to the independence and security of a nation. There is a distinction between bravado and the adoption of a high tone becoming the position and character of a great nation. I have said that the correspondence on the

table exhibits a marked difference in the tone of the negotiation of Great Britain and the United States. Mr. Webster writes on this subject: —

"Your Lordship's observations, upon the propriety of preserving the unity of the Madawaska settlement, are in a great measure just, and altogether founded, I doubt not, in entirely good motives. They savour of humanity and a kind regard to the interests and feelings of individuals. But the difficulties seem insuperable."

Well, then, can any human being say, that our honour was not concerned in preserving to the British Crown this territory of Madawaska, the settlers upon it being anxiously desirous to remain under our sway. Observe, too, the tone in which Mr. Webster receives even the mildest and gentlest remonstrance on the part of Lord Ashburton. Lord Ashburton had ventured to express a doubt in the correspondence relative to the *Caroline*, whether, in a particular instance, the American Government would possess sufficient control over its subjects in their conduct towards other states — a very natural doubt, considering what has happened in late years. Mr. Webster, however, did not suffer the observation to pass for a moment without replying to it, and he declared, —

"It is for the Congress of the United States, whose attention has been called to the subject, to say what further provisions ought to be made to expedite proceedings in such cases; and in answer to your Lordship's questions, towards the close of your note, I have to say that the Government of the United States holds itself, not only fully disposed, but fully competent to carry into practice every principle which it avows or acknowledges, and to fulfil every duty and obligation which it owes to foreign governments, their citizens, or subjects."

I ask any one to compare the letters of Lord Ashburton and of Mr. Webster from the beginning to the end of the correspondence, and to declare whether an entirely different spirit does not pervade every sentence of them. I think, therefore, that I have made out some ground at least on which to support the first point which I proposed to establish, and that there is grave reason to doubt whether the dignity of the country has not been grievously compromised in this negotiation. The negotiation, I must observe, far from settling all the points in dispute between the two countries, has placed some of them in a worse position than that in which they previously stood. At this late hour I will confine myself to only one of these points. I undertake to prove that,

with respect to that most important point of dispute between the two nations, the right of visit, the Treaty of Washington has placed us on a worse footing than we stood on before. The right of visit has, it is well known, excited a strong feeling in the United States, and the right honourable Baronet opposite has declared that the British Government will not abandon it. Now I wish to understand from the gentlemen opposite, what construction they put upon the words of the eighth article of the treaty? It runs thus: —

"The parties mutually stipulate, that each shall prepare, equip, and maintain in service on the coast of Africa a sufficient and adequate squadron, or naval force of vessels, of suitable numbers and descriptions, to carry in all not less than eighty guns, to enforce, separately and respectively, the laws, rights, and obligations of each of the two countries for the suppression of the slave-trade: the said squadrons to be independent of each other, but the two governments stipulating nevertheless to give such orders to the officers commanding their respective forces, as shall enable them most effectually to act in concert and coöperation, upon mutual consultation, as exigencies may arise, for the attainment of the true object of this article; copies of all such articles to be communicated by each government to the other respectively."

Does that article mean that we have ceded the right of visit or not? The right honourable Baronet has told us distinctly that it does not; but in what sense is that article received in the United States? The right honourable Baronet, if I understood him aright, took some exception to the reference which has been made to the conduct of the American Senate with reference to this question, and said that the President was the only executive organ. I contend that the Senate is a portion of the executive power. Gentlemen must be aware that by the Constitution of the United States, the consent of the Senate is as necessary to make a treaty binding on America as the ratification of the Sovereign in this country. Now I hold in my hand the report of a speech delivered by Mr. Rives, the senator for Virginia, and chairman of the committee of foreign relations to which the Treaty of Washington was referred, and upon the report of which it was ratified. Mr. Rives, in referring to the eighth article, said that, under that, each power is to act separately and independently of the other, and neither power would be at liberty to visit the vessels of the other. I say that the eighth article is, in fact, so much waste paper; for it has been received in one sense

in America and in another in London. Her Majesty has ratified the treaty in the sense that it does not abandon the right of visit, and the American President has ratified it in the sense that it does. Did any one ever hear of such a mode of settling long-disputed questions between two countries, and laying the foundation of long-continued amity? It would be bad enough if the matter were to stop here for the present, and we should hear nothing of the results for four or five years; but the very hand which has sown the seeds of dissension has also provided for their immediate fructification. It is provided that each country shall send a squadron, to enforce separately and respectively the laws, rights, and obligations of each, and it is intended these squadrons are to act with a view to obtain the same end. How? Why, by one having instructions to enforce the right of search, and by the other having instructions to resist it. Was there ever such a device for bringing two nations into collision? Here are two squadrons, commanded by high-spirited officers, and manned by gallant crews — the one being instructed to do that which the other is told to consider an outrage on their flag. No device could have been more elaborately and ingeniously contrived to destroy the chance of maintaining pacific relations between the two countries. It is a curious circumstance that this article, so important in itself, and so strangely framed, is one respecting which not a single line of explanation is to be found in the correspondence — everything respecting it would seem to have passed in conversation. Which of the two suppositions am I to adopt? Am I to suppose that Lord Ashburton, not intending to abandon the right of visit, yet in conversation with Mr. Webster inadvertently let fall some expressions which induced that gentleman to believe that he did abandon it. [Sir *R. Peel:* No.] I accept the right honourable Baronet's denial; but then, look at the other horn of the dilemma. How came it into the head of Mr. Webster, within a week of the signature of the treaty, to inform the committee of foreign affairs of the Senate that we had given up the right of visit? — and how came it into the head of the American President to make the same declaration? I am unwilling to attribute this apparent misapprehension to intention or misrepresentation on the part of the American authorities. Perhaps it is better to suppose that Lord Ashburton, in his conference with Mr. Webster, allowed his speech to

get the better of him. I have sometimes observed that that able and ingenious man, when on the floor of this House, allowed his speech to get the mastery of him, and so has given utterance to words which he had not well weighed before, nor could accurately remember after. To suppose that the Government of the United States should, before the ink of the treaty was yet dry, have committed an act of state craft such as its conduct if insincere would be, is to imagine a proceeding which could not be accurately described in very mild terms. However, the first proof we have of the amicable effects of the Treaty of Washington is, that on the first day of the session, the Prime Minister of England is obliged to rise in the House of Commons and contradict what the American President had stated about the eighth article. This is not a symptom betokening the existence of that state of amity which we have been brought to expect would be the result of the treaty. I cannot help referring to another point: I allude to the bill introduced into the Senate respecting the Oregon Territory. That such a bill should have been carried by a majority, is sufficiently indicative of the state of feeling in America towards this country. It should be borne in mind, that the Senate is not dependent for its existence on the popular will; it is elected, not by a democratic body, and endures for six years. It is a body which comprises amongst its members a large proportion of the men of the greatest weight and most distinguished for their ability in the United States. When such a bill as that about the Oregon Territory can find supporters in such an assembly, it shows the state of public feeling which has sprung up in America from the Washington Treaty. One other matter connected with this view of the question I may refer to. It was, it must be admitted, sufficiently ungracious conduct on the part of the American Minister at Paris, General Cass, to interfere to prevent France from joining in the treaty of the five powers on the subject of the right of search. But was it necessary that, in the very first speech which the American President made after the signing of the Treaty of Washington, he should take credit for having, in that respect, frustrated the policy of England? This is another proof of the amity which has sprung up from the Treaty of Washington. Look again at the language used in the Senate — not only the language of those who entertained strong feelings against England,

but of Mr. Calhoun, who was always supposed to be favourable to this country. What did he say, when speaking on the right of visit? He said, that if England put any other interpretation on the treaty than that in which it was construed in America, she must "do it at her peril." Does this look like a pacific result? The right honourable Baronet tells us that he has not abandoned one particle of his position, and he will not, of course, now disgrace the country by receding. The noble Lord had spent eight or nine months in arranging a treaty which is to secure peace and friendship, and what is the result? Are not the symptoms of pugnacity still greater than they were before? And is not this the natural result of the course which has been pursued? What other effect could be hoped for? How can any nation respect a government which has ceased to respect itself? I said before, and I now repeat, that, instead of procuring for us the blessings and advantages of peace, the course pursued has every tendency to plunge us speedily into a war with America; and it is because of the strong sense which I entertain of the advantages of peace, and because I feel that the policy indicated in the papers before the House is not calculated to insure peace, that I now express these sentiments. It will not do for this country at one moment to take certain steps in the cause of humanity, and shortly after to retrace them when resisted by other nations. The moment we abdicate any one object because of the resistance of another power, England loses the high place which she holds amongst the nations, and then every other power will be increasing in its demands for fresh exactions. What do we see daily in the French papers? They have taken the tone from this circumstance, and are constantly referring to the example of America as one to be followed. They say, only let M. Guizot bully the English as the American President has done, and France would soon triumph over the arrogant pretensions of the haughty islanders. Everything in the country conspires to make it an object of general envy with other nations. Its great power, its immense wealth, its extensive empire its flag floating in every sea, all contribute to that effect. It is easy to talk of the treaty of July, and to attribute the feeling of hostility to that; but it is well known, everybody knows, that even the powers who are parties to that treaty entertain a feeling of envy towards this country. Under these circumstances, I am satisfied

that if you suffer yourselves to be treated with anything like contempt by other nations — if you allow any doubt to arise as to the spirit with which you are prepared to maintain the interests of this country in your dealings with the other powers of the world — if you allow it once to be thought that the higher the ground taken by others the lower will be your tone, and the more submissive you will become — if you allow these impressions to go abroad, founded upon your public intercourse with any one nation, — then I am satisfied, I say, that you will soon have to contend with more than one enemy for your place among the nations of the world. I do not say that these are maxims which can be used by every government. I do not say that there may not be some petty principality or some insignificant republic to which they would not apply; that there may not be some Duke of Lucca or some republic of Geneva that might not find it safe to adopt them; but I say that that is not the state of our country; that she has been too great ever to find her safety in humble littleness. If she cannot find safety in her firmness and her dignity, England can never find it in subserviency and shame. These are my charges against this treaty. Allowing, in the first instance, that the boundary line is not the only direct source of censure, I say that the negotiation generally has been conducted in such a manner as to lower the character of this country. And secondly, I say that the negotiation has been so conducted, and the treaty has been so framed, that it has left one of the most serious causes of irritation more inflamed than before. I say, that one article of the treaty has been ratified in one sense at Washington and in another sense in London. I say, that you are both sending your squadrons to meet each other under circumstances in which they can be scarcely friendly. I see no symptoms leading me to believe that the effect of all your humiliation has been to obtain any kind feeling, any esteem, any respect from the United States. On the contrary, as far as I can judge the disposition on the part of public men in the United States, I think they seem to believe that that power has nothing to do but to take a very high and resolute tone in order to obtain whatever it may wish. I think, too, I can see in the feeling of the other powers of the world towards you the effect of what you have done with the United States. I think I can see on their part a belief that they advantageously profit by adopting the

example set them by the United States. And I conceive, therefore, that this policy of yours, though professedly pacific — and which, as far as your intentions and those of Lord Ashburton went, was so — is more likely than any other policy ever adopted by any government of this country to bring on before long some most fearful and devastating war.

NOTE.

As the subject of this speech is one of permanent interest in American history, and the debate with its result illustrates in a marked manner certain salient points in the character of British statesmen, we annex an analysis of the proceedings in both Houses of Parliament which terminated by the adoption in both of a vote of thanks to Lord Ashburton. This analysis derives additional interest and value for our purpose by the frequent allusions that occur in it to the member from Edinburgh.

HOUSE OF COMMONS, *March* 22, 1843.

TREATY OF WASHINGTON.

Adjourned Debate.

Sir Charles Napier (in allusion to the speeches of the previous evening) thought if honourable gentlemen would make shorter speeches, they would produce more impression and cause less fatigue. Last night a mist had come over his eyes during the speech of the right honourable Baronet [Sir Robert Peel] which had almost the effect of mesmerism and compelled him to retire, so as to prevent his hearing the speech of the right honourable gentleman from Edinburgh [Mr. Macaulay], in every word of which he agreed. A roar of laughter followed this statement, when Sir Charles explained that he had read the speech in the morning papers. He was satisfied that every man who looked impartially at this treaty must admit that it was a most unwise and impolitic measure. It would appear that the noble Lord [Ashburton] was sent out with the determination to settle the question at issue, no matter how disadvantageous the settlement might be to Great Britain.

Mr. D'Israeli had listened to the speech of the noble Lord [Palmerston] with uninterrupted attention and unbroken admiration. It was one of the ablest Parliamentary exhibitions he could

recall — he would say unquestionably so, if the noble Lord had never had anything to do with the circumstances he so perspicuously explained. The noble Lord objected to the treaty because it embodied terms which were more favourable than those which the noble Lord was willing and anxious to accept under the award of the King of the Netherlands. He believed that a very general opinion prevailed in favour of the treaty as an advantageous settlement of a great and difficult question; but he believed that the opinion was equally general that Great Britain had a right to the disputed territory and could afford to be generous. With regard to the conduct of the negotiation by the American Government, he did not think Mr. Webster was called upon to produce the map marked with the strong red line, [which Lord Palmerston intimated had been unfairly withheld,] even if it were the same that Dr. Franklin alluded to in his letter to Mr. Livingston as the map (Mitchell's) brought to the treaty [of 1783] by the Commissioners from England and used in tracing the boundary. He believed that the American people had acted throughout this negotiation with sincerity and the American statesmen with honour.

Mr. Hawes was presenting his views on the question, when an honourable member having observed that there were less than forty members present, the House was counted and adjourned at a quarter past seven o'clock.

HOUSE OF COMMONS, *March* 23, 1843.

TREATY OF WASHINGTON.

Mr. Hume, having alluded to the circumstances of the adjournment on the preceding evening as discreditable and disgraceful to the House, asked Lord Palmerston if he had any intention of renewing the debate. His Lordship replied that he was quite satisfied with the discussion that had taken place, and should not press his motion to a division, or give notice of any other motion on the subject. Thereupon Mr. Hume gave notice that on the 31st instant he should submit a resolution to the House, the effect of which he stated.

HOUSE OF COMMONS, *May* 2, 1843.

TREATY OF WASHINGTON.

Mr. Hume, in rising to move a resolution of thanks to Lord Ashburton, said that he was the more induced to do so in consequence of the attack upon his Lordship by the noble Lord [Palmerston], who had lately occupied the post of Foreign Secretary, and concluded his speech by moving, —

"That this House, looking to the long-protracted and unsuccessful negotiations for the settlement of the northeastern

boundary between the United States of America and the British North American provinces; and taking into consideration the great importance of removing the grounds of irritation between the inhabitants of the frontier, is of opinion that the Treaty of Washington, by which that boundary has been defined and settled, is alike honourable and advantageous; and that Lord Ashburton, who conducted the negotiations which led to that treaty, deserves, for that service, the thanks of the House."

Dr. Bowring seconded the motion. Sir C. Napier was not astonished that a noble Lord [Brougham] in the other House should have proposed a vote of thanks to the noble Lord [Ashburton], — but he must express his regret that the honourable member from Montrose, whom he had always considered a plain, straightforward, honest, calculating Scotchman, should follow in that noble and learned Lord's footsteps. He moved as an amendment that the House adjourn. Captain Berkely seconded the amendment. Mr. Estcott supported the original motion. Mr. E. Buller regretted that the motion had been brought forward, and should vote against it as entirely unprecedented. Sir H. Douglas expressed his cordial approval of the conduct of Lord Ashburton in not having insisted upon the retention of Rouse's Point. Mr. Vernon Smith thought Mr. Hume's resolution monstrous, and asserted that it was owing to the fact of the House being counted out on a warm evening, whereby the honourable member was unable to deliver his speech, that Lord Ashburton was now indebted for this vote of thanks. Mr. C. Buller was not only prepared to vote for Mr. Hume's resolution, but was glad that it had been offered.

Lord Stanley made a long speech in reply to Lord Palmerston and Mr. Macaulay. He said if Lord Ashburton was indebted to any one more than another for the extraordinary and unprecedented honour of having the thanks of that House given him as the negotiator of a treaty with the United States, the person to whom he was mainly indebted for it was the noble Lord [Palmerston] the member for Tiverton, on account of the unfair and he must say the ungenerous attack made by that noble Lord on Lord Ashburton. A right honourable gentleman, a late Cabinet Minister, whose observations were therefore received with considerable weight, had told the House in the course of his attack upon the noble Lord whose treaty he had assailed, that there never had been a greater stain cast upon British honour in the whole course of British diplomacy. Were these unmeaning words? [*Mr. Macaulay:* I spoke of the despatches, and not of the terms of the treaty.] He [Lord Stanley] was speaking at a distance of three or four weeks from the speech of the right honourable gentleman, and regretted he could not have replied to some of his observations at the time, but he certainly had un-

derstood him, speaking rather of the terms of the treaty than the language of the despatches, to have said that a greater stain had never been cast by British diplomacy upon British honour than had been cast upon it by Lord Ashburton's treaty. These were terms and expressions to which neither Lord Ashburton nor her Majesty's Government ought to submit in silence, and he rejoiced that the honourable member from Montrose had given the Government an opportunity of answering that attack. He would venture to say that no treaty had ever been concluded between two nations with greater mutual harmony or greater mutual advantage, or with respect to which, if dissensions had arisen, those dissensions would have been more mutually suicidal than this treaty between this country and the United States of America. [*Mr. Macaulay:* Mutually suicidal!] The right honourable gentleman was a great critic. If the expression "mutually suicidal" was not quite correct, it would at least be generally intelligible. If a war could arise between this country and the United States, not a blow could be struck by the one against the other which would not recoil upon itself; and while that blow might inflict an injury upon the foe, it would be productive of an equal injury to the assailant. The expression he had used did not therefore call for the hypercriticism of the right honourable gentleman. After discussing at some length the settlement of the questions which Mr. Macaulay said on a former occasion had been left in a worse than unsettled state, Lord Stanley concluded by an appeal to the House to support Mr. Hume's motion, and thereby tell the country and tell America that they viewed with satisfaction, with no unworthy exultation, but with honest rejoicing, the prospect of continued peace, and give due honour to the statesman by whose ability as a negotiator these results had been obtained.

Lord John Russell, following on the other side, observed that no vote of censure had been proposed in this case. All that is complained of by the noble Lord [Stanley] is that my noble friend [Lord Palmerston] and my right honourable friend the member from Edinburgh [Mr. Macaulay] have been audacious enough to make speeches in this House, in which they have commented upon the course taken by Lord Ashburton in respect to the treaty effected by him with the United States. The noble Lord, in thinking those speeches justify the unusual course of a vote of approbation, has paid a high compliment to my noble friend and my right honourable friend the member from Edinburgh; because he must have felt that the speeches were so full of argument and so unanswerable, that the only way in which he can do away with their effect is to pass resolutions of both Houses of Parliament — resolutions entirely without precedent — approving the conduct of the noble Lord whose conduct was so

commented upon. Without adopting his words, he agreed with Mr. Macaulay, that the tone of the negotiation and the manner of them were calculated to lower this country in the eyes of the world, and it was his belief that such had been their effect.

Sir R. Peel said: I admit that the proposed course is unusual, but put this question to the noble Lord, — Was there ever an instance in which three statesmen whose opinions are entitled to such respect as those of the noble Lord [Russell] who has just spoken, the late Foreign Secretary, and the right honourable gentleman the member from Edinburgh, — was there ever such a case in which men who swayed public opinion to such an extent, came forward so decidedly to express an unfavourable opinion as to the result of a negotiation and the conduct of a diplomatist?. The noble Lord [Russell] has stood in the position of the leader of the House of Commons; the other noble Lord [Palmerston] by his side has lately filled the office of Secretary of State for Foreign Affairs, and is generally believed to have more knowledge and experience in these matters than any other man living; of the great talents and abilities of the right honourable gentleman on his right [Mr. Macaulay] I have had frequent opportunities of expressing my opinion; and I will ask, is it just, is it equitable, that three such men should attempt to discredit — nay, to ruin — the reputation of a public man who has undertaken a public duty from the purest of all possible motives, and because they conduct their attack according to precedent, those who support and defend him are to have no opportunity of asking for the opinion of the House of Commons — of determining whether or not such discredit is cast upon him with the sanction of the Legislature and the public? One noble Lord has described this negotiation as a capitulation; the right honourable gentleman has said that it is a stain upon the honour of the country; the other noble Lord says he entirely agrees in this opinion, and yet they refuse a motion calculated to put their opinions to the test by a vote of the House.

Viscount Palmerston concluded the debate in a speech of some length, in which he averred that the vote proposed was against the practice of Parliament, that it would add no honour to the individual on whom it was conferred, and would lower the country in the eyes of every other nation in the world.

The House divided on the question of adjournment — Ayes, 105; Noes, 240. Majority, 135.

The House again divided on Mr. Hume's motion — Ayes, 238; Noes, 96. Majority, 142.

House of Lords, *April* 7, 1843.

Treaty of Washington.

Lord Brougham made a long and very elaborate speech in favour of the Treaty of Washington, concluding with moving their Lordships to resolve: —

"That this House doth approve of the conduct of the late negotiation with the United States; doth rejoice in the terms, alike advantageous and honourable to both parties, upon which the treaty has been concluded; and doth express its high sense of the ability with which the Lord Ashburton, the Minister sent to treat with the United States, executed his commission, and its satisfaction at the restoration of a good understanding, which it is alike the duty and the interest of both countries to maintain unbroken."

The Duke of Cambridge concurred in the motion of the noble and learned Baron, and hoped it would be carried by a very large majority. The Marquess of Lansdowne inquired if the motion had been brought forward in connection with the Government. The Earl of Aberdeen replied — Not the least; but the motion will have their support. The Marquess of Lansdowne spoke in opposition to the motion, as, though the treaty was one to the object of which he wished well, he could not absolutely "rejoice" at the terms in which it was concluded; and as he did not wish indirectly to condemn it, instead of saying "not content," he should satisfy himself by moving that the House do now adjourn. The Earl of Aberdeen defended the treaty, and though the motion had been made unconnected with and without the sanction of her Majesty's Government, having been made, they felt it their duty to give it a ready and a willing support. After a long speech by Lord Campbell against the motion, and some observations by Lord Colchester, Lord Denman, and the Earl of Carnarvon, the amendment was negatived, and the resolution of thanks offered by Lord Brougham agreed to.

HOUSE OF LORDS, *Tuesday, April* 11, 1843.

Lord Ashburton, who seemed nearly overcome by his feelings, returned his thanks to the Lords for the resolution of thanks with which they had honoured him, in a brief speech, in conclusion saying: "I must again express to your Lordships the deep sense I entertain of the honour of that approbation which you have been pleased to express, and which is the highest reward that I could possibly receive for the humble efforts which I have made in the service of my country." The Duke of Wellington added, "I am sure the House will have heard the speech of the noble Lord with satisfaction. I consider it my duty to move that the subject be entered on the journals of the House."

Motion agreed to, *nem. con.*

POST-OFFICE ESPIONAGE.

A SPEECH DELIVERED IN THE HOUSE OF COMMONS, ON THE 24TH OF JUNE, 1844.

On the 14th June, 1844, Mr. T. Duncombe, in the House of Commons, presented a petition from Joseph Mazzini and three others, stating that their letters had been detained, opened, and read by certain of the authorities of Her Majesty's Post-office, and praying the appointment of a committee to inquire into the alleged unconstitutional and infamous practice. Sir J. Graham admitted a warrant had been issued on his authority as to the correspondence of the petitioners, which warrant was no longer in force. The power had existed from Queen Anne's time, and he had exercised it, and could not consent to enter into any further explanation.

On the 24th of June, Mr. T. Duncombe presented the petition of Mr. Charles Stolzman, a Pole, with averments similar to those above stated in the case of Mazzini and others, and moved its reference to a select committee. Sir J. Graham replied that the power in question had existed since the Revolution, and had been in constant use before and after that event, and that he had exercised it in the accustomed form, and that he therefore felt it his duty to resist the motion. After a long debate in which Mr. Macaulay made the following speech, the House divided — Ayes, 162; Noes, 206. Majority, 44.

Mr. Speaker, — I can assure the right honourable gentleman, that on entering the House my earnest wish was to treat this question without mixing any feelings of a personal or party nature; but the observations of the right honourable Baronet have driven me to adopt a tone which I had wished to avoid. For I must say that the manner, and the language of the right honourable gentleman, were not those of a man conscious of the very peculiar position in which he is placed. For even if it be admitted that the power exercised by the Secretary of State is a necessary power, still it cannot be denied that it borders closely upon powers of the most odious and immoral character. (Hear, hear.)

If a necessary power, it is certainly one abhorrent to the English character and to the genius of the British constitution; a power which, if intrusted to a government for considerations of public safety, is one over the exercise of which we are bound to watch with the utmost jealousy. It is one with respect to which we ought to know precisely what has been done; the nature of the warrants under which letters have been opened; how often such warrants have been issued, and what has been the course of proceeding under them. But that in a case like this, of all

others, the minister should come down to the House of Commons declaring that the law had given him the power, and at the same time charged him with the responsibility, and that he would give no account of the manner in which the power had been exercised, does seem to me to encourage the suspicion that it is a power likely to be abused ; and more especially as the right honourable gentleman, I cannot help saying, does not consider the power that singularly indelicate and fearful thing which it really is. (Hear, hear.) The right honourable Baronet seems to consider it quite enough for the minister to appeal to his general character and refer to his responsibility, at the same time refusing to answer ; but if there ever was a power which ought to be watched, and the manner in which it had been exercised accounted for, it is assuredly this.

To come, however, to the motion of the honourable member for Finsbury, who calls on the House to appoint a committee to inquire into, and, among other things, to report on the present state of the law with respect to this subject, and to suggest modifications if necessary. Now, I beg to say that for the present state of the law, neither party in this House is answerable. Both parties have received it from their ancestors. Both parties no doubt, when in power, have used it. I do not impute to either a wish to use it dishonestly or oppressively ; but now that our attention has been called to it, I do maintain that it is a power which we cannot, consistently with our duty, allow to continue without very great modifications.

I defy any person to show on what principle a letter of mine passing through the Post-office should be treated differently from a letter in my private desk ; or to establish that a letter in the post-bag is so situated that it may be treated in a manner that would not be adopted towards a letter in private keeping. The letter is put into the post-bag for the purpose of transmission ; and of the transmission of letters we have given the Post-office for revenue purposes a monopoly. But that the institution of the Post-office should be turned into an engine of secret police does appear to me to be abhorrent to the principle of the constitution, as well as foreign to the very nature and object of the Post-office.

I well know that the law gives this power to the Secretary of State, and I am ready to admit a full share of the responsibility

as applying to the late government ; but I certainly think it is a power which ought not to continue a part of the law of England. (Hear, hear.)

I repeat that there is no essential reason why a letter in the Post-office should be treated differently from a letter in my private desk. If I were engaged in a treasonable conspiracy, it would matter little whether the letter were on its passage or whether it were in my pocket. The inconvenience is the same whether it is examined before it reaches me or when it is in my possession. Then why adopt a different course with regard to the one from that which you pursue with regard to the other? If the letters of persons are to be examined at all, let them be examined in the same way as if they had reached their destination, and the persons receiving them had been apprehended on suspicion of crime. In that case a man's papers may be searched and produced against him in a court of justice; but then he has by the very nature of things the means of seeking redress if the power of the Secretary of State has been exceeded, and, on proof of such excess, of getting exemplary damages. (Hear, hear.)

Look at a remarkable case in our history — that of Mr. Wilkes. When his letters had been seized and read by Lord Halifax, and Mr. Wood, the Under-secretary of State, he brought an action for those letters being wrongfully seized, and without probable cause, the result of which was that they were obliged by the verdict of a jury to pay him 1,000*l.* damages. This is what I call ministerial responsibility. (Cheers and laughter.)

Now, what I want to know is this: why, if a letter had been delivered to Mr. Mazzini, and it had been illegally seized and opened while in his possession, he would have an action against the offender and perhaps a 1,000*l.* damages ; while, before it reached him, it might be opened on the most vague suspicions crossing the mind of the Home Secretary, or from some hint given by a foreign Minister, and Mr. Mazzini be left in ignorance of its having been opened, or if he became aware of it, left without redress ?

But we are told that this practice and this power are necessary to the due maintenance of government; the same argument that is made use of to justify the search of a man's papers and the

reading of letters that had been delivered, is also urged in support of the opening of letters going through the Post-office.

But the question whether we should take the disadvantages with the advantages of a system of spy police has not now for the first time to be determined. The question was decided by our ancestors long ago, and I hope that we, in the present day, are not inclined to reverse their decision. (Hear, hear.)

Everything that has been urged by and in behalf of the right honourable gentleman may with equal force be urged in favor of the application of the spy system in its worst shape. Where is the difference between the personal communication of friends near and the written correspondence of friends at a distance? The same argument that justifies the opening of a letter might be brought in favor of giving a political agent the power of popping his ear to the key-hole. (Cheers.) The same plea which is urged for opening letters might be used to defend the employment of spies to overhear private conversations, and with the same advantages. (Cheers.) For nobody doubts that there are advantages from the system of breaking open letters. Does any human being doubt that good had resulted from the employment of the spy system — that the French police had been able to prevent many crimes? (Hear, hear.) It was the same thing as to torture. There could be no doubt that as long as the English law sanctioned the use of the torture a great many crimes were detected by it. It has too its advantages — (Cries of oh, oh!) what! would any human being doubt that much good of this description had been done by the use of the torture? They only showed the rack to Guy Fawkes, and out came all the history of the Gunpowder Plot. (Cheers.)

But the good or the evil of such modes of getting at the truth is not now in question.

This country determined long ago to dismiss this degrading, pernicious, and debasing system of espionage from our political institutions. They determined that they would rather take the risk of great crimes going undiscovered or unpunished, than adopt a system which would put all men in a state of insecurity, possess all minds with a craven fear, and destroy that manly spirit upon which, far more than upon any system of police, must depend the freedom and the happiness of nations. (Hear.)

The suspicion of such practices is bad enough in the case of an Englishman, but it is much worse in the case of a foreigner.

I do not mean to cast any imputation on the honesty of those who may have exercised that power, but men may be very honest and yet not be very judicious. Their minds may be overheated by political differences, and they may be led away by particular theories; and the apprehensions of foreigners will be very much increased by the mystery which the right honourable gentleman has thrown around the proceedings of the government, when a few plain answers would have informed them at once with respect to the extent to which this practice has been carried. A minister might have said that since he had been in office the letters of some twelve persons had been opened, when, for instance, there was reason to believe that great forgeries had been committed, or that there had been large frauds in the issue of exchequer bills. If any guess had been afforded as to the number of persons whose correspondence had been subjected to this examination, or of the class of persons to whom the practice had extended, or of the mode in which it was done, information of this kind given by a Minister of the Crown would have a great effect in quieting the minds of the public. But the refusal of the right honourable gentleman to give any information of the sort forces the conviction that this practice has been carried to a very great extent by him, and under peculiar circumstances of concealment. I can never believe that if the right honourable Baronet could have denied the charge that seals had been counterfeited and stamps replaced, in order to conceal the opening of letters, he would not have been glad to have done so. The right honourable Baronet must know that unless protected in particular cases, the power exercised by the Government, and the practice of counterfeiting seals and replacing stamps, is a *malum in se*, as well as an infraction of the Common Law of the land. The right honourable Baronet admits that being empowered by this Act of Parliament to do acts which were illegal at Common Law, he has authorized the opening of letters in the Post-office, detaining some, and sending on others, taking care, however, to disguise the fact that they had been opened; yet he would not satisfy the House and the country by telling them how often he had done this, nor the circumstances under which he had done it. The right honourable Baronet refused to say how

far it would be likely to be done hereafter, what was the principle on which it was done, and what the classes of cases to which it was applied, what was the ground or evidence on which the power was exercised, and what was the warrant which he had issued for the purpose.

The right honourable Baronet refused to answer any of these questions, and denied the right of the House to ask them. But if the House of Commons is not to inquire into such cases as these, I would like to know what the constitutional functions of this House are.

I will put a hypothetical case, though I would not do so if the right honourable Baronet had not driven me to it by withholding the real one.

About two years ago the manufacturing districts of this country were in a state of very alarming excitement — in a state which was very dangerous in the opinion of all men. There was a general strike, and much violence was used against those who were ready to work by those who would not work. At the time these disturbances were going on, the universal language of the ultra organs of the party opposite — language which was also held at public meetings by men of considerable importance in the party — was to the effect that they were got up by the gentlemen connected with the Anti-corn Law League.

Now, if language like this was held by persons of such rank in the party that it was not an exaggeration to assume they might one day be Home Secretaries, what assurance have we, shrouded as these practices are in a mystery impenetrable, that the letters of the Anti-corn Law League, or of gentlemen connected with that body, might not on some occasion like this be opened while passing through the Post-office? I was not a member of the League, nor if I wanted a seat in this House would I sit here as their nominee; but I will undertake to say that there is no person who does not now believe that the charge then so industriously circulated against that body by the party of honourable gentlemen opposite was wholly unfounded.

I should like, then, to have some assurance that the Secretary of State, acting in accordance with the views he has intimated to the House, may not at some future time think it his duty to open all the letters of some thirty or forty gentlemen — representatives of the people in this House — some containing, perhaps,

important facts connected with their business ; some having reference to important public affairs, and some filled with the most delicate secrets of private life — and all upon what grounds? Why, upon some vague suspicion, the nature or extent of which the Secretary of State refuses to avow.

As I have already said, in the case of an Englishman the evil is not so great. In regard to him the hardship is only this, that his secrets are read by public officials ; but the case of the unhappy foreigner is a very different one. They cannot hang an Englishman, whatever his letters may contain, without the ordeal of a judge and jury. But if there is any foundation for the charges that have been made with respect to foreigners, I cannot but wonder that men who assume to be so humane as the honourable gentlemen opposite should think so lightly of this sort of procedure. There comes a poor Italian to this country, after having in some was probably incurred the displeasure of his government at home, and, relying upon the supposed good faith of the English Post-office, he corresponds through it in confidence, and with a freedom which in his own country he dares not use. Then comes the Minister of his own country to the Secretary for the Home Department and says: "This is a suspicious person. I am afraid he is in league with fugitive Italians, or Poles, and I must have some information about him." Upon this, his letters are stopped in the Post-office, they are read, and resealed, and no intimation is conveyed to him that this had been done. The information thus received is sent over to the native Government of the unhappy foreigner, who carefully lay it by. No evil consequences result to the unfortunate writer whilst he remains in this country ; but, at length, unconscious of what awaits him, he goes back to his native land, running at once into the lion's mouth. The information which he had trusted to the English Post-office in the most profound confidence would be used against him — communications the more open, because made in such implicit reliance, would be the ground of charge by his own Government — the foreigner has no judge or jury to fence him round and protect him; and the result of the whole would perhaps be that, upon information thus afforded, by destroying the safety of the English Post-office, he would be consigned to a dungeon and kept there for life.

In saying this, I do not desire to cast reflections on the institutions of any foreign country, or the conduct of any foreign government. Since I have been in this House I have never done so. I do not think it right to do so. On the contrary, I think that the tone and manner of the House in their allusions to foreign nations ought to be marked with something of the respect and decorum of diplomatic communication. But whilst we should not set ourselves up as the judges upon neighboring governments, we ought not to stoop to be their spies. And I must say that this question in regard to the communications of foreigners appears to me to afford a clear ground for altering the whole law. It is putting a Minister in great difficulties to give him such a power, or,— for I do not so much care for the difficulties of the Minister, — it is putting the country in a false position that a Russian or an Austrian Ambassador should be able to come to the Minister and ask him to open the letters of some foreigner resident in England, and that the Minister should be in a situation, perhaps, to be obliged to say, "Yes, we have the power, but we will not use it." (Hear, hear.)

I think the possessor of this power might place the country in a great difficulty, when the representative of a country whose institutions differ widely from ours, and whom for some reason it was particularly expedient to disoblige, came and pressed to be allowed to obtain such information as this practice would afford him.

I think it would be far better to place the Minister in such a situation that he should be able to say, "Parliament has not given us such a power, and we cannot, except according to the forms of the law, and under circumstances of the greatest publicity, unseal a letter passing through the Post-office."

That answer, coming from a Minister of the Crown, in reply to such a request, would better become the dignity of the country. (Hear, hear.)

My feeling is so strong on this subject, that if the motion of the honourable member for Finsbury had been for leave to bring in a Bill to take away this power from the Secretary of State, I would without hesitation have voted for it; but, shaped as the motion is, the least I can do is to give my vote, and I shall give it most cordially, for the appointment of a Committee to inquire whether or not this power had been properly exercised. (Cheers.)

OPENING LETTERS IN THE POST-OFFICE.

A SPEECH DELIVERED IN THE HOUSE OF COMMONS, ON THE 2D OF JULY, 1844.

On the 2d of July, 1844, Mr. T. Duncombe moved in the House of Commons for the appointment of a Select Committee to make inquiries into certain alleged abuses in Her Majesty's Post-office. Sir J. Graham proposed an amendment, observing in the course of his speech, "Sworn servants of Her Majesty's Privy Councillors, versed in affairs of State, conversant with the habits of office, well knowing what it had been their duty to do, and what their predecessors had done, have thought fit deliberately to impugn my conduct — the honourable member for Edinburgh for one, has not thought it unbecoming his station and abilities, possessed as he is of power of declamation perhaps hardly equalled in this House, he has not thought it unbecoming of him to come down — I fear not without preparation — and to pour forth the most impassioned language; pointing out to the indignation of the House and the public, not the law, not the system, but me, the Minister of the Crown, acting in the discharge of an official duty, well known to my predecessors and exercised by them. He said, I think, that it was not to the legal existence of such a power that he objected, but for the departure from the established mode of its exercise — to the manner, in fact, in which I had employed it. Did he stand alone? Did no other sworn Councillors of Her Majesty say the same thing?"

After a long debate, in the course of which Mr. Macaulay made the following speech, a Committee of Secrecy was appointed to inquire into the state of the law and the subject, and report their opinion and observations thereupon to the House. Ayes, 128; Noes, 52. Majority, 76.

Mr. Speaker, — I would not now presume to address the House, were it not that I understand, during my absence, some allusion has been made to me by the right honourable Secretary of State for the Home Department. It is extremely difficult for a person who has not been present during a debate in this House to collect precisely what has been said during his absence; and it is proportionately difficult for him to give an answer to any charges which have been made against him. But, if I rightly understand what I am told has been said by the right honourable gentleman, the charges he has made against me may be classed under two heads. He has imputed to me, in the first place, a dereliction of my duty as a sworn servant of Her Majesty; and, secondly, he has accused me of making a personal attack upon him, and of imputing to him some misconduct unprecedented in the administration of his predecessors. Now, as to the first and more important of these attacks, I deny that I have in any respect, by any observation I have addressed to this House, violated my oath of duty as a Privy Councillor. I

deny that I have divulged any secret which came into my possession in that capacity. I deny that in the character of a Privy Councillor I ever became acquainted with any circumstances whatever relating to the practice of the Post-office. I deny that any paper I knew to be obtained by the opening or scraping of seals was ever, to the best of my knowledge, submitted to me in that capacity. I declare, also, that there is no gentleman, on either side of this House, who is more completely ignorant than I am of all details of that Department of the Post-office to which frequent reference has been made during this discussion. Then, with respect to the second charge made against me by the right honourable gentleman, I deny, with equal confidence, the imputation that I came down to this House to make a personal attack upon that right honourable Baronet. I certainly came down intending to express concisely a very strong opinion as to the present state of the law and practice ; and I intended to have prefaced my observations by declaring that I made no imputation whatever upon the right honourable Baronet beyond what must attach to him in common with all others who had been called upon to administer the same invidious law. If I departed from that line of conduct, it was because the right honourable Baronet himself forced me to such a course ; because I considered that the line of conduct he adopted was utterly inconsistent with all my notions of Ministerial responsibility. I now say, that in my opinion, there is a wide distinction between the conduct of the right honourable gentleman and that of any persons who have preceded him in his present office ; for who, when called upon in the face of this House to state on what principle he had exercised the power we are now discussing, ever declined to do so before the right honourable Baronet ? When Sir Robert Walpole was called upon in this House to make such a statement, he frankly avowed the principle on which he had acted. The noble Lord near me has made a distinct statement of the principle on which, during his administration, that department was directed. He distinctly declared that, in the exercise of this power, he acted solely with a view to the safety of this country ; and that he would have considered it a departure from the spirit of the law to examine the letters of foreigners, in consequence of applications from foreign Governments, founded upon apprehensions they might entertain. The right honourable Baronet opposite

was repeatedly asked, "Will you state that this was the principle upon which you acted?" The right honourable gentleman replied that he would not; that a sense of public duty, regard for the safety of the State, induced him to refuse to declare the principle upon which he had acted. Was that consistent with the conduct of the right honourable Baronet to-night? Why is not this Secret Committee, consisting of nine members of this House, to tell us upon what principle this practice was carried on? Is it not appointed in order that the House may ascertain on what general principle letters have been opened? There can be no doubt that the intention is, that this Secret Committee shall state to the House, not particular cases, but the general principles upon which the Post-office and other authorities have acted. To the appointment of that Committee the right honourable Baronet entertains no decided objection. Does he not conceive that the public safety is compromised by the appointment of such a Committee? Let me ask the right honourable Baronet why he did not state to the House what he conceives will be the substance of the Report of that Committee? Why, if the Report of that Committee will compromise the public safety, the right honourable gentleman ought not to agree to its appointment. If the public safety will not be compromised by such Report, the right honourable Baronet ought not to have shielded himself under the pretence of "public safety," and have refused any answer to questions put to him on this subject. A mere declaration from him of the principles upon which he has acted would have prevented me from making any remarks as to his conduct. I should merely have addressed myself to what I think the most important part of the subject — the state of the law. I should be much surprised if the Report of this Committee should lead me to entertain an opinion different from that I have hitherto expressed, namely, that the state of the law requires very great and extensive alteration. I will not detain the House further than to say that I heartily approve of the motion of the right honourable Baronet opposite, and that I think, upon the whole, it is desirable that in the first instance, at least, the proceedings of the Committee should be secret. I conceive it to be possible that some matters connected with the administration of foreign affairs might be disclosed in the course of the examination, the publicity of which we might have reason to regret. I am not desirous that

any secrecy whatever should be preserved with respect to the internal arrangements of the Post-office ; because, with regard to all matters purely internal, the people of this country are fully competent to judge what is for their own interest. Matters which it is not advisable to render public might, however, be disclosed in the course of an inquiry of this nature. I do not conceive that any Report this Committee may present is likely to induce me to change the opinion I now entertain — that the power possessed by the Secretary of State with regard to the opening of letters is one which produces no advantage at all commensurate with the evils and the feeling of insecurity which it occasions ; and that it is a power which, whether we censure the past exercise of it or not, we ought without delay to abolish.

NOTE.

On a subsequent evening, July 18, Mr. Duncombe moved that he should be allowed to attend before the Secret Committee, and examine witnesses in support of the petitions of Mazzini and Stolzman. In the course of the debate on this motion, Mr. Duncombe said that the business must be carried through all its ramifications, from the letter-carrier to the person who opened and resealed the letter, and committed the forgeries. They must carry it through all the different steps to satisfy the public, and he knew the noble Lord (Sandon, Chairman) and the Committee had not done so. He begged to ask the Secretary for the Home Department if his (Mr. Duncombe's) letters had been examined or not, since the gentleman came into office.

Sir J. Graham. — "Consistently with my sense of duty, I cannot answer, and will not answer this question." Division on Mr. Duncombe's motion — Ayes, 51; Noes, 141. Majority, 90.

The Works of Lord Macaulay.

SPEECHES, POEMS, AND REPORT AND NOTES ON THE INDIAN PENAL CODE.

VOL. II.

SPEECHES.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 22D OF MAY, 1846.

On the twenty-ninth of April, 1846, Mr. Fielden, Member for Oldham, moved the second reading of a Bill for limiting the labour of young persons in factories to ten hours a day. The debate was adjourned, and was repeatedly resumed at long intervals. At length on the twenty-second of May the Bill was rejected by 203 votes to 193. On that day the following Speech was made: —

It is impossible, Sir, that I can remain silent after the appeal which has been made to me in so pointed a manner by my honourable friend, the Member for Sheffield.[1] And even if that appeal had not been made to me, I should have been very desirous to have an opportunity of explaining the grounds on which I shall vote for the second reading of this bill.

It is, I hope, unnecessary for me to assure my honourable friend that I utterly disapprove of those aspersions which have, both in this House and out of it, been thrown on the owners of factories. For that valuable class of men I have no feeling but respect and good will. I am convinced that with their interests the interests of the whole community, and especially of the labouring classes, are inseparably bound

[1] Mr. Ward.

up. I can also with perfect sincerity declare that the vote which I shall give to-night will not be a factious vote. In no circumstances indeed should I think that the laws of political hostility warranted me in treating this question as a party question. But at the present moment I would much rather strengthen than weaken the hands of Her Majesty's Ministers. It is by no means pleasant to me to be under the necessity of opposing them. I assure them, I assure my friends on this side of the House with whom I am so unfortunate as to differ, and especially my honourable friend, the Member for Sheffield, who spoke, I must say, in rather too plaintive a tone, that I have no desire to obtain credit for humanity at their expense. I fully believe that their feeling towards the labouring people is quite as kind as mine. There is no difference between us as to ends: there is an honest difference of opinion as to means: and we surely ought to be able to discuss the points on which we differ without one angry emotion or one acrimonious word.

The details of the bill, Sir, will be more conveniently and more regularly discussed when we consider it in Committee. Our business at present is with the principle: and the principle, we are told by many gentlemen of great authority, is unsound. In their opinion, neither this bill, nor any other bill regulating the hours of labour, can be defended. This, they say, is one of those matters about which we ought not to legislate at all: one of those matters which settle themselves far better than any government can settle them. Now it is most important that this point should be fully cleared up. We certainly ought not to usurp functions which do not properly belong to us: but, on the other hand, we ought not to abdicate functions which

do properly belong to us. I hardly know which is the greater pest to society, a paternal government, that is to say a prying, meddlesome government, which intrudes itself into every part of human life, and which thinks that it can do everything for everybody better than anybody can do anything for himself; or a careless, lounging government, which suffers grievances, such as it could at once remove, to grow and multiply, and which to all complaint and remonstrance has only one answer: "We must let things alone: we must let things take their course: we must let things find their level." There is no more important problem in politics than to ascertain the just mean between these two most pernicious extremes, to draw correctly the line which divides those cases in which it is the duty of the State to interfere from those cases in which it is the duty of the State to abstain from interference. In old times the besetting sin of rulers was undoubtedly an inordinate disposition to meddle. The lawgiver was always telling people how to keep their shops, how to till their fields, how to educate their children, how many dishes to have on their tables, how much a yard to give for the cloth which made their coats. He was always trying to remedy some evil which did not properly fall within his province; and the consequence was that he increased the evils which he attempted to remedy. He was so much shocked by the distress inseparable from scarcity that he made statutes against forestalling and regrating, and so turned the scarcity into a famine. He was so much shocked by the cunning and hardheartedness of money lenders, that he made laws against usury; and the consequence was that the borrower, who, if he had been left unprotected, would have got money at ten per cent., could hardly, when protected,

get it at fifteen per cent. Some eminent political philosophers of the last century exposed with great ability the folly of such legislation, and, by doing so, rendered a great service to mankind. There has been a reaction, a reaction which has doubtless produced much good, but which, like most reactions, has not been without evils and dangers. Our statesmen cannot now be accused of being busybodies. But I am afraid that there is, even in some of the ablest and most upright among them, a tendency to the opposite fault. I will give an instance of what I mean. Fifteen years ago it became evident that railroads would soon, in every part of the kingdom, supersede to a great extent the old highways. The tracing of the new routes which were to join all the chief cities, ports, and naval arsenals of the island was a matter of the highest national importance. But unfortunately, those who should have acted for the nation refused to interfere. Consequently, numerous questions which were really public, questions which concerned the public convenience, the public prosperity, the public security, were treated as private questions. That the whole society was interested in having a good system of internal communication seemed to be forgotten. The speculator who wanted a large dividend on his shares, the landowner who wanted a large price for his acres, obtained a full hearing. But nobody applied to be heard on behalf of the community. The effects of that great error we feel, and we shall not soon cease to feel. Unless I am greatly mistaken, we are in danger of committing to-night an error of the same kind. The honourable Member for Montrose [1] and my honourable friend, the Member for Sheffield, think that the

question before us is merely a question between the old and the new theories of commerce. They cannot understand how any friend of free trade can wish the Legislature to interfere between the capitalist and the labourer. They say, "You do not make a law to settle the price of gloves, or the texture of gloves, or the length of credit which the glover shall give. You leave it to him to determine whether he will charge high or low prices, whether he will use strong or flimsy materials, whether he will trust or insist on ready money. You acknowledge that these are matters which he ought to be left to settle with his customers, and that we ought not to interfere. It is possible that he may manage his shop ill. But it is certain that we shall manage it ill. On the same grounds on which you leave the seller of gloves and the buyer of gloves to make their own contract, you ought to leave the seller of labour and the buyer of labour to make their own contract."

I have a great respect, Sir, for those who reason thus: but I cannot see this matter in the light in which it appears to them; and, though I may distrust my own judgment, I must be guided by it. I am, I believe, as strongly attached as any member of this House to the principle of free trade, rightly understood. Trade, considered merely as trade, considered merely with reference to the pecuniary interest of the contracting parties, can hardly be too free. But there is a great deal of trade which cannot be considered merely as trade, and which affects higher than pecuniary interests. And to say that Government never ought to regulate such trade is a monstrous proposition, a proposition at which Adam Smith would have stood aghast. We impose some restrictions on trade for purposes of police. Thus, we do not suffer everybody who has a cab and a

horse to ply for passengers in the streets of London. We do not leave the fare to be determined by the supply and the demand. We do not permit a driver to extort a guinea for going half a mile on a rainy day when there is no other vehicle on the stand. We impose some restrictions on trade for the sake of revenue. Thus, we forbid a farmer to cultivate tobacco on his own ground. We impose some restrictions on trade for the sake of national defence. Thus, we compel a man who would rather be ploughing or weaving to go into the militia; and we fix the amount of pay which he shall receive without asking his consent. Nor is there in all this anything inconsistent with the soundest political economy. For the science of political economy teaches us only that we ought not on commercial grounds to interfere with the liberty of commerce; and we, in the cases which I have put, interfere with the liberty of commerce on higher than commercial grounds.

And now, Sir, to come closer to the case with which we have to deal, I say, first, that where the health of the community is concerned, it may be the duty of the State to interfere with the contracts of individuals; and to this proposition I am quite sure that Her Majesty's Government will cordially assent. I have just read a very interesting report signed by two members of that Government, the Duke of Buccleuch, and the noble earl who was lately Chief Commissioner of the Woods and Forests, and who is now Secretary for Ireland;[1] and, since that report was laid before the House, the noble earl himself has, with the sanction of the Cabinet, brought in a bill for the protection of the public health. By this bill it is provided that no man shall be permitted to build a house on his own land

[1] The Earl of Lincoln.

in any great town without giving notice to certain Commissioners. No man is to sink a cellar without the consent of these Commissioners. The house must not be of less than a prescribed width. No new house must be built without a drain. If an old house has no drain, the Commissioners may order the owner to make a drain. If he refuses, they make a drain for him, and send him the bill. They may order him to whitewash his house. If he refuses, they may send people with pails and brushes to whitewash it for him, at his charge. Now, suppose that some proprietor of houses at Leeds or Manchester were to expostulate with the Government in the language in which the Government has expostulated with the supporters of this bill for the regulation of factories. Suppose that he were to say to the noble earl, "Your lordship professes to be a friend to free trade. Your lordship's doctrine is that everybody ought to be at liberty to buy cheap and to sell dear. Why then may not I run up a house as cheap as I can, and let my rooms as dear as I can? Your lordship does not like houses without drains. Do not take one of mine then. You think my bedrooms filthy. Nobody forces you to sleep in them. Use your own liberty: but do not restrain that of your neighbours. I can find many a family willing to pay a shilling a week for leave to live in what you call a hovel. And why am not I to take the shilling which they are willing to give me? And why are not they to have such shelter as, for that shilling, I can afford them? Why did you send a man without my consent to clean my house, and then force me to pay for what I never ordered? My tenants thought the house clean enough for them; or they would not have been my tenants: and, if they and I were satisfied, why did

you, in direct defiance of all the principles of free trade, interfere between us?" This reasoning, Sir, is exactly of a piece with the reasoning of the honourable Member for Montrose, and of my honourable friend, the Member for Sheffield. If the noble earl will allow me to make a defence for him, I believe that he would answer the objection thus: "I hold," he would say, "the sound doctrine of free trade. But your doctrine of free trade is an exaggeration, a caricature of the sound doctrine; and by exhibiting such a caricature you bring discredit on the sound doctrine. We should have nothing to do with the contracts between you and your tenants, if those contracts affected only pecuniary interests. But higher than pecuniary interests are at stake. It concerns the commonwealth that the great body of the people should not live in a way which makes life wretched and short, which enfeebles the body and pollutes the mind. If, by living in houses which resemble hogstyes, great numbers of our countrymen have contracted the tastes of hogs; if they have become so familiar with filth and stench and contagion, that they burrow without reluctance in holes which would turn the stomach of any man of cleanly habits, that is only an additional proof that we have too long neglected our duties, and an additional reason for our now performing them."

Secondly, I say that where the public morality is concerned it may be the duty of the State to interfere with the contracts of individuals. Take the traffic in licentious books and pictures. Will anybody deny that the State may, with propriety, interdict that traffic? Or take the case of lotteries. I have, we will suppose, an estate for which I wish to get twenty thousand pounds. I announce my intention to issue a thousand

tickets at twenty pounds each. The holder of the number which is first drawn is to have the estate. But the magistrate interferes; the contract between me and the purchasers of my tickets is annulled; and I am forced to pay a heavy penalty for having made such a contract. I appeal to the principle of free trade, as expounded by the honourable gentlemen, the Members for Montrose and Sheffield. I say to you, the legislators who have restricted my liberty, "What business have you to interfere between a buyer and a seller? If you think the speculation a bad one, do not take tickets. But do not interdict other people from judging for themselves." Surely you would answer, "You would be right if this were a mere question of trade: but it is a question of morality. We prohibit you from disposing of your property in this particular mode, because it is a mode which tends to encourage a most pernicious habit of mind, a habit of mind incompatible with all the qualities on which the wellbeing of individuals and of nations depends."

It must then, I think, be admitted that where health is concerned, and where morality is concerned, the State is justified in interfering with the contracts of individuals. And, if this be admitted, it follows that the case with which we now have to do is a case for interference.

Will it be denied that the health of a large part of the rising generation may be seriously affected by the contracts which this bill is intended to regulate? Can any man who has read the evidence which is before us, can any man who has ever observed young people, can any man who remembers his own sensations when he was young, doubt that twelve hours a day of labour in a factory is too much for a lad of thirteen?

Or will it be denied that this is a question in which public morality is concerned? Can any one doubt — none, I am sure, of my friends around me doubts — that education is a matter of the highest importance to the virtue and happiness of a people? Now we know that there can be no education without leisure. It is evident that, after deducting from the day twelve hours for labour in a factory, and the additional hours necessary for exercise, refreshment, and repose, there will not remain time enough for education.

I have now, I think, shown that this bill is not in principle objectionable; and yet I have not touched the strongest part of our case. I hold that, where public health is concerned, and where public morality is concerned, the State may be justified in regulating even the contracts of adults. But we propose to regulate only the contracts of infants. Now was there ever a civilised society in which the contracts of infants were not under some regulation? Is there a single member of this House who will say that a wealthy minor of thirteen ought to be at perfect liberty to execute a conveyance of his estate, or to give a bond for fifty thousand pounds? If anybody were so absurd as to say, "What has the Legislature to do with the matter? Why cannot you leave trade free? Why do you pretend to understand the boy's interest better than he understands it?"— you would answer: "When he grows up, he may squander his fortune away if he likes; but at present the State is his guardian, and he shall not ruin himself till he is old enough to know what he is about." The minors whom we wish to protect have not indeed large property to throw away: but they are not the less our wards. Their only inheritance, the only fund to which they must look for

their subsistence through life, is the sound mind in the sound body. And is it not our duty to prevent them from wasting that most precious wealth before they know its value?

But, it is said, this bill, though it directly limits only the labour of infants, will, by an indirect operation, limit also the labour of adults. Now, Sir, though I am not prepared to vote for a bill directly limiting the labour of adults, I will plainly say that I do not think that the limitation of the labour of adults would necessarily produce all those frightful consequences which we have heard predicted. You cheer me in very triumphant tones, as if I had uttered some monstrous paradox. Pray, does it not occur to any of you that the labour of adults is now limited in this country? Are you not aware that you are living in a society in which the labour of adults is limited to six days in seven? It is you, not I, who maintain a paradox opposed to the opinions and the practices of all nations and ages. Did you ever hear of a single civilised State since the beginning of the world in which a certain portion of time was not set apart for the rest and recreation of adults by public authority? In general, this arrangement has been sanctioned by religion. The Egyptians, the Jews, the Greeks, the Romans, had their holidays: the Hindoo has his holidays: the Mussulman has his holidays: there are holidays in the Greek Church, holidays in the Church of Rome, holidays in the Church of England. Is it not amusing to hear a gentleman pronounce with confidence that any legislation which limits the labour of adults must produce consequences fatal to society, without once reflecting that in the society in which he lives, and in every other society that exists, or ever has existed, there has

been such legislation without any evil consequence? It is true that a Puritan Government in England, and an Atheistical Government in France, abolished the old holidays as superstitious. But those governments felt it to be absolutely necessary to institute new holidays. Civil festivals were substituted for religious festivals. You will find among the ordinances of the Long Parliament a law providing that, in exchange for the days of rest and amusement which the people had been used to enjoy at Easter, Whitsuntide, and Christmas, the second Tuesday of every month should be given to the working man, and that any apprentice who was forced to work on the second Tuesday of any month might have his master up before a magistrate. The French Jacobins decreed that the Sunday should no longer be a day of rest; but they instituted another day of rest, the Decade. They swept away the holidays of the Roman Catholic Church; but they instituted another set of holidays, the Sansculottides, one sacred to Genius, one to Industry, one to Opinion, and so on. I say, therefore, that the practice of limiting by law the time of the labour of adults, is so far from being, as some gentlemen seem to think, an unheard of and monstrous practice, that it is a practice as universal as cookery, as the wearing of clothes, as the use of domestic animals.

And has this practice been proved by experience to be pernicious? Let us take the instance with which we are most familiar. Let us inquire what has been the effect of those laws which, in our own country, limit the labour of adults to six days in every seven. It is quite unnecessary to discuss the question whether Christians be or be not bound by a divine command to observe the Sunday. For it is evident that, whether our

weekly holiday be of divine or of human institution, the effect on the temporal interests of society will be exactly the same. Now, is there a single argument in the whole Speech of my honourable friend, the Member for Sheffield, which does not tell just as strongly against the laws which enjoin the observance of the Sunday as against the bill on our table? Surely, if his reasoning is good for hours, it must be equally good for days.

He says, "If this limitation be good for the working people, rely on it that they will find it out, and that they will themselves establish it without any law." Why not reason in the same way about the Sunday? Why not say, "If it be a good thing for the people of London to shut their shops one day in seven, they will find it out, and will shut their shops without a law?" Sir, the answer is obvious. I have no doubt that, if you were to poll the shopkeepers of London, you would find an immense majority, probably a hundred to one, in favour of closing shops on the Sunday; and yet it is absolutely necessary to give to the wish of the majority the sanction of a law; for, if there were no such law, the minority, by opening their shops, would soon force the majority to do the same.

But, says my honourable friend, you cannot limit the labour of adults unless you fix wages. This proposition he lays down repeatedly, assures us that it is incontrovertible, and indeed seems to think it self-evident; for he has not taken the trouble to prove it. Sir, my answer shall be very short. We have, during many centuries, limited the labour of adults to six days in seven; and yet we have not fixed the rate of wages.

But, it is said, you cannot legislate for all trades;

and therefore you had better not legislate for any. Look at the poor sempstress. She works far longer and harder than the factory child. She sometimes plies her needle fifteen, sixteen hours in the twenty-four. See how the housemaid works, up at six every morning, and toiling up stairs and down stairs till near midnight. You own that you cannot do anything for the sempstress and the housemaid. Why then trouble yourself about the factory child? Take care that by protecting one class you do not aggravate the hardships endured by the classes which you cannot protect. Why, Sir, might not all this be said, word for word, against the laws which enjoin the observance of the Sunday? There are classes of people whom you cannot prevent from working on the Sunday. There are classes of people whom, if you could, you ought not to prevent from working on the Sunday. Take the sempstress of whom so much has been said. You cannot keep her from sewing and hemming all Sunday in her garret. But you do not think that a reason for suffering Covent Garden Market, and Leadenhall Market, and Smithfield Market, and all the shops from Mile End to Hyde Park to be open all Sunday. Nay, these factories about which we are debating, — does anybody propose that they shall be allowed to work all Sunday? See then how inconsistent you are. You think it unjust to limit the labour of the factory child to ten hours a day, because you cannot limit the labour of the sempstress. And yet you see no injustice in limiting the labour of the factory child, aye, and of the factory man, to six days in the week, though you cannot limit the labour of the sempstress.

But, you say, by protecting one class we shall aggravate the sufferings of all the classes which we can-

not protect. You say this; but you do not prove it; and all experience proves the contrary. We interfere on the Sunday to close the shops. We do not interfere with the labour of the housemaid. But are the housemaids of London more severely worked on the Sunday than on other days? The fact notoriously is the reverse. For your legislation keeps the public feeling in a right state, and thus protects indirectly those whom it cannot protect directly.

Will my honourable friend, the Member for Sheffield, maintain that the law which limits the number of working days has been injurious to the working population? I am certain that he will not. How then can he expect me to believe that a law which limits the number of working hours must necessarily be injurious to the working population? Yet he and those who agree with him seem to wonder at our dulness because we do not at once admit the truth of the doctrine which they propound on this subject. They reason thus: We cannot reduce the number of hours of labour in factories without reducing the amount of production. We cannot reduce the amount of production without reducing the remuneration of the labourer. Meanwhile, foreigners, who are at liberty to work till they drop down dead at their looms, will soon beat us out of all the markets of the world. Wages will go down fast. The condition of our working people will be far worse than it is; and our unwise interference will, like the unwise interference of our ancestors with the dealings of the corn factor and the money lender, increase the distress of the very class which we wish to relieve.

Now, Sir, I fully admit that there might be such a limitation of the hours of labour as would produce the

evil consequences with which we are threatened: and this, no doubt, is a very good reason for legislating with great caution, for feeling our way, for looking well to all the details of this bill. But it is certainly not true that every limitation of the hours of labour must produce these consequences. And I am, I must say, surprised when I hear men of eminent ability and knowledge lay down the proposition that a diminution of the time of labour must be followed by a diminution of the wages of labour, as a proposition universally true, as a proposition capable of being strictly demonstrated, as a proposition about which there can be no more doubt than about any theorem in Euclid. Sir, I deny the truth of the proposition; and for this plain reason. We have already, by law, greatly reduced the time of labour in factories. Thirty years ago, the late Sir Robert Peel told the House that it was a common practice to make children of eight years of age toil in mills fifteen hours a day. A law has since been made which prohibits persons under eighteen years of age from working in mills more than twelve hours a day. That law was opposed on exactly the same grounds on which the bill before us is opposed. Parliament was told then, as it is told now, that with the time of labour the quantity of production would decrease, that with the quantity of production the wages would decrease, that our manufacturers would be unable to contend with foreign manufacturers, and that the condition of the labouring population instead of being made better by the interference of the Legislature would be made worse. Read over those debates; and you may imagine that you are reading the debate of this evening. Parliament disregarded these prophecies. The time of labour was

limited. Have wages fallen? Has the cotton trade left Manchester for France or Germany? Has the condition of the working people become more miserable? Is it not universally acknowledged that the evils which were so confidently predicted have not come to pass? Let me be understood. I am not arguing that, because a law which reduced the hours of daily labour from fifteen to twelve did not reduce wages, a law reducing those hours from twelve to ten or eleven cannot possibly reduce wages. That would be very inconclusive reasoning. What I say is this, that, since a law which reduced the hours of daily labour from fifteen to twelve has not reduced wages, the proposition that every reduction of the hours of labour must necessarily reduce wages is a false proposition. There is evidently some flaw in that demonstration which my honourable friend thinks so complete; and what the flaw is we may perhaps discover if we look at the analogous case to which I have so often referred.

Sir, exactly three hundred years ago, great religious changes were taking place in England. Much was said and written, in that inquiring and innovating age, about the question whether Christians were under a religious obligation to rest from labour on one day in the week; and it is well known that the chief Reformers, both here and on the continent, denied the existence of any such obligation. Suppose then that, in 1546, Parliament had made a law that there should thenceforth be no distinction between the Sunday and any other day. Now, Sir, our opponents, if they are consistent with themselves, must hold that such a law would have immensely increased the wealth of the country and the remuneration of the working man.

What an effect, if their principles be sound, must have been produced by the addition of one sixth to the time of labour! What an increase of production! What a rise of wages! How utterly unable must the foreign artisan, who still had his days of festivity and of repose, have found himself to maintain a competition with a people whose shops were open, whose markets were crowded, whose spades, and axes, and planes, and hods, and anvils, and looms were at work from morning till night on three hundred and sixty-five days a year. The Sundays of three hundred years make up fifty years of our working days. We know what the industry of fifty years can do. We know what marvels the industry of the last fifty years has wrought. The arguments of my honourable friend irresistibly lead us to this conclusion, that if, during the last three centuries, the Sunday had not been observed as a day of rest, we should have been a far richer, a far more highly civilised people than we now are, and that the labouring class especially would have been far better off than at present. But does he, does any Member of the House, seriously believe that this would have been the case? For my own part, I have not the smallest doubt that, if we and our ancestors had, during the last three centuries, worked just as hard on the Sundays as on the week days, we should have been at this moment a poorer people and a less civilised people than we are; that there would have been less production than there has been, that the wages of the labourer would have been lower than they are, and that some other nation would have been now making cotton stuffs and woollen stuffs and cutlery for the whole world.

Of course, Sir, I do not mean to say that a man

will not produce more in a week by working seven days than by working six days. But I very much doubt whether, at the end of a year, he will generally have produced more by working seven days a week than by working six days a week; and I firmly believe that, at the end of twenty years, he will have produced much less by working seven days a week than by working six days a week. In the same manner I do not deny that a factory child will produce more, in a single day, by working twelve hours than by working ten hours, and by working fifteen hours than by working twelve hours. But I do deny that a great society in which children work fifteen, or even twelve hours a day, will, in the lifetime of a generation, produce as much as if those children had worked less. If we consider man merely in a commercial point of view, if we consider him merely as a machine for the production of worsted and calico, let us not forget what a piece of mechanism he is, how fearfully and wonderfully made. We do not treat a fine horse or a sagacious dog exactly as we treat a spinning jenny. Nor will any slaveholder, who has sense enough to know his own interest, treat his human chattels exactly as he treats his horses and his dogs. And would you treat the free labourer of England like a mere wheel or pulley? Rely on it that intense labour, beginning too early in life, continued too long every day, stunting the growth of the body, stunting the growth of the mind, leaving no time for healthful exercise, leaving no time for intellectual culture, must impair all those high qualities which have made our country great. Your overworked boys will become a feeble and ignoble race of men, the parents of a more feeble and more ignoble progeny; nor will it be long

before the deterioration of the labourer will injuriously affect those very interests to which his physical and moral energies have been sacrificed. On the other hand, a day of rest recurring in every week, two or three hours of leisure, exercise, innocent amusement, or useful study, recurring every day, must improve the whole man, physically, morally, intellectually ; and the improvement of the man will improve all that the man produces. Why is it, Sir, that the Hindoo cotton manufacturer, close to whose door the cotton grows, cannot, in the bazaar of his own town, maintain a competition with the English cotton manufacturer, who has to send thousands of miles for the raw material, and who has then to send the wrought material thousands of miles to market? You will say that it is owing to the excellence of our machinery. And to what is the excellence of our machinery owing? How many of the improvements which have been made in our machinery do we owe to the ingenuity and patient thought of working men? Adam Smith tells us in the first chapter of his great work, that you can hardly go to a factory without seeing some very pretty machine — that is his expression — devised by some labouring man. Hargraves, the inventor of the spinning jenny, was a common artisan. Crompton, the inventor of the mule jenny, was a working man. How many hours of the labour of children would do so much for our manufactures as one of these improvements has done? And in what sort of society are such improvements most likely to be made? Surely in a society in which the faculties of the working people are developed by education. How long will you wait before any negro, working under the lash in Louisiana, will contrive a better machinery for squeez-

ing the sugar canes? My honourable friend seems to me, in all his reasonings about the commercial prosperity of nations, to overlook entirely the chief cause on which that prosperity depends. What is it, Sir, that makes the great difference between country and country? Not the exuberance of soil; not the mildness of climate; not mines, nor havens, nor rivers. These things are indeed valuable when put to their proper use by human intelligence: but human intelligence can do much without them; and they without human intelligence can do nothing. They exist in the highest degree in regions of which the inhabitants are few, and squalid, and barbarous, and naked, and starving; while on sterile rocks, amidst unwholesome marshes, and under inclement skies, may be found immense populations, well fed, well lodged, well clad, well governed. Nature meant Egypt and Sicily to be the gardens of the world. They once were so. Is it anything in the earth or in the air that makes Scotland more prosperous than Egypt, that makes Holland more prosperous than Sicily? No; it was the Scotchman that made Scotland: it was the Dutchman that made Holland. Look at North America. Two centuries ago the sites on which now arise mills, and hotels, and banks, and colleges, and churches, and the Senate Houses of flourishing commonwealths, were deserts abandoned to the panther and the bear. What has made the change? Was it the rich mould, or the redundant rivers? No: the prairies were as fertile, the Ohio and the Hudson were as broad and as full then as now. Was the improvement the effect of some great transfer of capital from the old world to the new? No: the emigrants generally carried out with them no more than a pittance; but they carried

out the English heart, and head, and arm ; and the English heart and head and arm turned the wilderness into cornfield and orchard, and the huge trees of the primeval forest into cities and fleets. Man, man is the great instrument that produces wealth. The natural difference between Campania and Spitzbergen is trifling when compared with the difference between a country inhabited by men full of bodily and mental vigour, and a country inhabited by men sunk in bodily and mental decrepitude. Therefore it is that we are not poorer but richer, because we have, through many ages, rested from our labour one day in seven. That day is not lost. While industry is suspended, while the plough lies in the furrow, while the Exchange is silent, while no smoke ascends from the factory, a process is going on quite as important to the wealth of nations as any process which is performed on more busy days. Man, the machine of machines, the machine compared with which all the contrivances of the Watts and the Arkwrights are worthless, is repairing and winding up, so that he returns to his labours on the Monday with clearer intellect, with livelier spirits, with renewed corporal vigour. Never will I believe that what makes a population stronger, and healthier, and wiser, and better, can ultimately make it poorer. You try to frighten us by telling us that, in some German factories, the young work seventeen hours in the twenty-four ; that they work so hard that among thousands there is not one who grows to such a stature that he can be admitted into the army ; and you ask whether, if we pass this bill, we can possibly hold our own against such competition as this ? Sir, I laugh at the thought of such competition. If ever we are forced to yield the foremost place among commercial

nations, we shall yield it, not to a race of degenerate dwarfs, but to some people prëeminently vigorous in body and in mind.

For these reasons, Sir, I approve of the principle of this bill, and shall, without hesitation, vote for the second reading. To what extent we ought to reduce the hours of labour is a question of more difficulty. I think that we are in the situation of a physician who has satisfied himself that there is a disease, and that there is a specific medicine for the disease, but who is not certain what quantity of that medicine the patient's constitution will bear. Such a physician would probably administer his remedy by small doses, and carefully watch its operation. I cannot help thinking that, by at once reducing the hours of labour from twelve to ten, we should hazard too much. The change is great, and ought to be cautiously and gradually made. Suppose that there should be an immediate fall of wages, which is not impossible. Might there not be a violent reaction? Might not the public take up a notion that our legislation had been erroneous in principle, though, in truth, our error would have been an error, not of principle, but merely of degree? Might not Parliament be induced to retrace its steps? Might we not find it difficult to maintain even the present limitation? The wisest course would, in my opinion, be to reduce the hours of labour from twelve to eleven, to observe the effect of that experiment, and if, as I hope and believe, the result should be satisfactory, then to make a further reduction from eleven to ten. This is a question, however, which will be with more advantage considered when we are in Committee.

One word, Sir, before I sit down, in answer to my noble friend near me.[1] He seems to think that this

[1] Lord Morpeth.

bill is ill timed. I own that I cannot agree with him. We carried up on Monday last to the bar of the Lords a bill which will remove the most hateful and pernicious restriction that ever was laid on trade. Nothing can be more proper than to apply, in the same week, a remedy to a great evil of a directly opposite kind. As lawgivers, we have two great faults to confess and to repair. We have done that which we ought not to have done. We have left undone that which we ought to have done. We have regulated that which we should have left to regulate itself. We have left unregulated that which we were bound to regulate. We have given to some branches of industry a protection which has proved their bane. We have withheld from public health and public morals the protection which was their due. We have prevented the labourer from buying his loaf where he could get it cheapest; but we have not prevented him from ruining his body and mind by premature and immoderate toil. I hope that we have seen the last both of a vicious system of interference and of a vicious system of noninterference, and that our poorer countrymen will no longer have reason to attribute their sufferings either to our meddling or to our neglect.

A SPEECH

DELIVERED AT THE OPENING OF THE EDINBURGH PHILOSOPHICAL INSTITUTION, ON THE 4TH OF NOVEMBER, 1846.

I THANK you, Gentlemen, for this cordial reception. I have thought it right to steal a short time from duties not unimportant for the purpose of lending my aid to an undertaking calculated, as I think, to raise the credit and to promote the best interests of the city which has so many claims on my gratitude.

The Directors of our Institution have requested me to propose to you as a toast the Literature of Britain. They could not have assigned to me a more agreeable duty. The chief object of this Institution is, I conceive, to impart knowledge through the medium of our own language. Edinburgh is already rich in libraries worthy of her fame as a seat of literature and a seat of jurisprudence. A man of letters can here without difficulty obtain access to repositories filled with the wisdom of many ages and of many nations. But something was still wanting. We still wanted a library open to that large, that important, that respectable class which, though by no means destitute of liberal curiosity or of sensibility to literary pleasures, is yet forced to be content with what is written in our own tongue. For that class especially, I do not say exclusively, this library is intended. Our directors, I hope, will not be satisfied, I, as a member, shall certainly not be satisfied, till we possess a noble and complete collec-

tion of English books, till it is impossible to seek in vain on our shelves for a single English book which is valuable either on account of matter or on account of manner, which throws any light on our civil, ecclesiastical, intellectual, or social history, which, in short, can afford either useful instruction or harmless amusement.

From such a collection, placed within the reach of that large and valuable class which I have mentioned, I am disposed to expect great good. And when I say this, I do not take into the account those rare cases to which my valued friend, the Lord Provost,[1] so happily alluded. It is indeed not impossible that some man of genius who may enrich our literature with imperishable eloquence and song, or who may extend the empire of our race over matter, may feel in our reading room, for the first time, the consciousness of powers yet undeveloped. It is not impossible that our volumes may suggest the first thought of something great to some future Burns, or Watt, or Arkwright. But I do not speak of these extraordinary cases. What I confidently anticipate is that, through the whole of that class whose benefit we have peculiarly in view, there will be a moral and an intellectual improvement; that many hours, which might otherwise be wasted in folly or in vice, will be employed in pursuits which, while they afford the highest and most lasting pleasure, are not only harmless, but purifying and elevating. My own experience, my own observation, justifies me in entertaining this hope. I have had opportunities, both in this and in other countries, of forming some estimate of the effect which is likely to be produced by a good collection of books on a society of young men.

[1] Mr. Adam Black.

There is, I will venture to say, no judicious commanding officer of a regiment who will not tell you that the vicinity of a valuable library will improve perceptibly the whole character of a mess. I well knew one eminent military servant of the East India Company, a man of great and various accomplishments, a man honourably distinguished both in war and in diplomacy, a man who enjoyed the confidence of some of the greatest generals and statesmen of our time. When I asked him how, having left his country while still a boy, and having passed his youth at military stations in India, he had been able to educate himself, his answer was, that he had been stationed in the neighbourhood of an excellent library, that he had been allowed free access to the books, and that they had, at the most critical time of his life, decided his character, and saved him from being a mere smoking, cardplaying, punchdrinking lounger.

Some of the objections which have been made to such institutions as ours have been so happily and completely refuted by my friend, the Lord Provost, and by the Most Reverend Prelate, who has honoured us with his presence this evening,[1] that it would be idle to say again what has been so well said. There is, however, one objection which, with your permission, I will notice. Some men, of whom I wish to speak with great respect, are haunted, as it seems to me, with an unreasonable fear of what they call superficial knowledge. Knowledge, they say, which really deserves the name, is a great blessing to mankind, the ally of virtue, the harbinger of freedom. But such knowledge must be profound. A crowd of people who have a smattering of mathematics, a smattering of astron-

[1] Archbishop Whateley.

omy, a smattering of chemistry, who have read a little poetry and a little history, is dangerous to the commonwealth. Such half knowledge is worse than ignorance. And then the authority of Pope is vouched. Drink deep or taste not; shallow draughts intoxicate: drink largely and that will sober you. I must confess that the danger which alarms these gentlemen never seemed to me very serious: and my reason is this; that I never could prevail on any person who pronounced superficial knowledge a curse, and profound knowledge a blessing, to tell me what was his standard of profundity. The argument proceeds on the supposition that there is some line between profound and superficial knowledge similar to that which separates truth from falsehood. I know of no such line. When we talk of men of deep science, do we mean that they have got to the bottom or near the bottom of science? Do we mean that they know all that is capable of being known? Do we mean even that they know, in their own especial department, all that the smatterers of the next generation will know? Why, if we compare the little truth that we know with the infinite mass of truth which we do not know, we are all shallow together; and the greatest philosophers that ever lived would be the first to confess their shallowness. If we could call up the first of human beings, if we could call up Newton, and ask him whether, even in those sciences in which he had no rival, he considered himself as profoundly knowing, he would have told us that he was but a smatterer like ourselves, and that the difference between his knowledge and ours vanished, when compared with the quantity of truth still undiscovered, just as the distance between a person at the foot of Ben Lomond and at the top of

Ben Lomond vanishes when compared with the distance of the fixed stars.

It is evident then that those who are afraid of superficial knowledge do not mean by superficial knowledge, knowledge which is superficial when compared with the whole quantity of truth capable of being known. For, in that sense, all human knowledge is, and always has been, and always must be, superficial. What then is the standard? Is it the same two years together in any country? Is it the same, at the same moment, in any two countries? Is it not notorious that the profundity of one age is the shallowness of the next; that the profundity of one nation is the shallowness of a neighbouring nation? Ramohun Roy passed, among Hindoos, for a man of profound Western learning; but he would have been but a very superficial member of this institute. Strabo was justly entitled to be called a profound geographer eighteen hundred years ago. But a teacher of geography, who had never heard of America, would now be laughed at by the girls of a boarding-school. What would now be thought of the greatest chemist of 1746, or of the greatest geologist of 1746? The truth is that, in all experimental science, mankind is, of necessity, constantly advancing. Every generation, of course, has its front rank and its rear rank; but the rear rank of a later generation occupies the ground which was occupied by the front rank of a former generation.

You remember Gulliver's adventures. First he is shipwrecked in a country of little men; and he is a Colossus among them. He strides over the walls of their capital: he stands higher than the cupola of their great temple: he tugs after him a royal fleet: he stretches his legs; and a royal army, with drums

beating and colours flying, marches through the gigantic arch: he devours a whole granary for breakfast, eats a herd of cattle for dinner, and washes down his meal with all the hogsheads of a cellar. In his next voyage he is among men sixty feet high. He who, in Lilliput, used to take people up in his hand in order that he might be able to hear them, is himself taken up in the hands and held to the ears of his masters. It is all that he can do to defend himself with his hanger against the rats and mice. The court ladies amuse themselves with seeing him fight wasps and frogs: the monkey runs off with him to the chimney top: the dwarf drops him into the cream jug and leaves him to swim for his life. Now, was Gulliver a tall or a short man? Why, in his own house at Rotherhithe, he was thought a man of the ordinary stature. Take him to Lilliput; and he is Quinbus Flestrin, the Man Mountain. Take him to Brobdingnag, and he is Grildrig, the little Manikin. It is the same in science. The pigmies of one society would have passed for giants in another.

It might be amusing to institute a comparison between one of the profoundly learned men of the thirteenth century and one of the superficial students who will frequent our library. Take the great philosopher of the time of Henry the Third of England, or Alexander the Third of Scotland, the man renowned all over the island, and even as far as Italy and Spain, as the first of astronomers and chemists. What is his astronomy? He is a firm believer in the Ptolemaic system. He never heard of the law of gravitation. Tell him that the succession of day and night is caused by the turning of the earth on its axis. Tell him that, in consequence of this motion, the polar diameter of

the earth is shorter than the equatorial diameter. Tell him that the succession of summer and winter is caused by the revolution of the earth round the sun. If he does not set you down for an idiot, he lays an information against you before the Bishop, and has you burned for a heretic. To do him justice, however, if he is ill informed on these points, there are other points on which Newton and Laplace were mere children when compared with him. He can cast your nativity. He knows what will happen when Saturn is in the House of Life, and what will happen when Mars is in conjunction with the Dragon's Tail. He can read in the stars whether an expedition will be successful, whether the next harvest will be plentiful, which of your children will be fortunate in marriage, and which will be lost at sea. Happy the State, happy the family, which is guided by the counsels of so profound a man! And what but mischief, public and private, can we expect from the temerity and conceit of sciolists who know no more about the heavenly bodies than what they have learned from Sir John Herschel's beautiful little volume? But, to speak seriously, is not a little truth better than a great deal of falsehood? Is not the man who, in the evenings of a fortnight, has acquired a correct notion of the solar system, a more profound astronomer than a man who has passed thirty years in reading lectures about the *primum mobile*, and in drawing schemes of horoscopes?

Or take chemistry. Our philosopher of the thirteenth century shall be, if you please, an universal genius, chemist as well as astronomer. He has perhaps got so far as to know, that if he mixes charcoal and saltpetre in certain proportions and then applies fire, there will be an explosion which will shatter all his

retorts and aludels; and he is proud of knowing what will in a later age be familiar to all the idle boys in the kingdom. But there are departments of science in which he need not fear the rivalry of Black, or Lavoisier, or Cavendish, or Davy. He is in hot pursuit of the philosopher's stone, of the stone that is to bestow wealth, and health, and longevity. He has a long array of strangely shaped vessels, filled with red oil and white oil, constantly boiling. The moment of projection is at hand; and soon all his kettles and gridirons will be turned into pure gold. Poor Professor Faraday can do nothing of the sort. I should deceive you if I held out to you the smallest hope that he will ever turn your halfpence into sovereigns. But if you can induce him to give at our Institute a course of lectures such as I once heard him give at the Royal Institution to children in the Christmas holidays, I can promise you that you will know more about the effects produced on bodies by heat and moisture than was known to some alchemists who, in the middle ages, were thought worthy of the patronage of kings.

As it has been in science so it has been in literature. Compare the literary acquirements of the great men of the thirteenth century with those which will be within the reach of many who will frequent our reading room. As to Greek learning, the profound man of the thirteenth century was absolutely on a par with the superficial man of the nineteenth. In the modern languages, there was not, six hundred years ago, a single volume which is now read. The library of our profound scholar must have consisted entirely of Latin books. We will suppose him to have had both a large and a choice collection. We will allow him thirty, nay forty manuscripts, and among them a Virgil, a

Terence, a Lucan, an Ovid, a Statius, a great deal of Livy, a great deal of Cicero. In allowing him all this, we are dealing most liberally with him; for it is much more likely that his shelves were filled with treatises on school divinity and canon law, composed by writers whose names the world has very wisely forgotten. But, even if we suppose him to have possessed all that is most valuable in the literature of Rome, I say with perfect confidence that, both in respect of intellectual improvement, and in respect of intellectual pleasures, he was far less favourably situated than a man who now, knowing only the English language, has a bookcase filled with the best English works. Our great man of the middle ages could not form any conception of any tragedy approaching Macbeth or Lear, or of any comedy equal to Henry the Fourth or Twelfth Night. The best epic poem that he had read was far inferior to the Paradise Lost; and all the tomes of his philosophers were not worth a page of the Novum Organum.

The Novum Organum, it is true, persons who know only English must read in a translation: and this reminds me of one great advantage which such persons will derive from our institution. They will, in our library, be able to form some acquaintance with the master minds of remote ages and foreign countries. A large part of what is best worth knowing in ancient literature, and in the literature of France, Italy, Germany, and Spain, has been translated into our own tongue. It is scarcely possible that the translation of any book of the highest class can be equal to the original. But, though the finer touches may be lost in the copy, the great outlines will remain. An Englishman who never saw the frescos in the Vatican may yet, from engravings, form some notion of the exquisite

grace of Raphael, and of the sublimity and energy of Michael Angelo. And so the genius of Homer is seen in the poorest version of the Iliad; the genius of Cervantes is seen in the poorest version of Don Quixote. Let it not be supposed that I wish to dissuade any person from studying either the ancient languages or the languages of modern Europe. Far from it. I prize most highly those keys of knowledge; and I think that no man who has leisure for study ought to be content until he possesses several of them. I always much admired a saying of the Emperor Charles the Fifth. "When I learn a new language," he said, "I feel as if I had got a new soul." But I would console those who have not time to make themselves linguists by assuring them that, by means of their own mother tongue, they may obtain ready access to vast intellectual treasures, to treasures such as might have been envied by the greatest linguists of the age of Charles the Fifth, to treasures surpassing those which were possessed by Aldus, by Erasmus, and by Melancthon.

And thus I am brought back to the point from which I started. I have been requested to invite you to fill your glasses to the Literature of Britain; to that literature, the brightest, the purest, the most durable of all the glories of our country; to that literature, so rich in precious truth and precious fiction; to that literature which boasts of the prince of all poets and of the prince of all philosophers; to that literature which has exercised an influence wider than that of our commerce, and mightier than that of our arms; to that literature which has taught France the principles of liberty, and has furnished Germany with models of art; to that literature which forms a tie closer than

the tie of consanguinity between us and the commonwealths of the valley of the Mississippi; to that literature before the light of which impious and cruel superstitions are fast taking flight on the banks of the Ganges; to that literature which will, in future ages, instruct and delight the unborn millions who will have turned the Australasian and Caffrarian deserts into cities and gardens. To the Literature of Britain, then! And, wherever British literature spreads, may it be attended by British virtue and by British freedom!

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 19TH OF APRIL, 1847

In the year 1847 the Government asked from the House of Commons a grant of one hundred thousand pounds for the education of the people. On the nineteenth of April, Lord John Russell, having explained the reasons for this application, moved the order of the day for a Committee of Supply. Mr. Thomas Duncombe, Member for Finsbury, moved the following amendment: —

"That previous to any grant of public money being assented to by this House, for the purpose of carrying out the scheme of national education, as developed in the Minutes of the Committee of Council on Education in August and December last, which Minutes have been presented to both Houses of Parliament by command of Her Majesty, a select Committee be appointed to inquire into the justice and expediency of such a scheme, and its probable annual cost; also to inquire whether the regulations attached thereto do not unduly increase the influence of the Crown, invade the constitutional functions of Parliament, and interfere with the religious convictions and civil rights of Her Majesty's subjects."

In opposition to this amendment the following Speech was made. After a debate of three nights, Mr. Thomas Duncombe obtained permission to withdraw the latter part of his amendment. The first part was put, and negatived by 372 votes to 47.

You will not wonder, Sir, that I am desirous to catch your eye this evening. The first duty which I performed, as a Member of the Committee of Council which is charged with the Superintendence of public instruction, was to give my hearty assent to the plan

which the honourable Member for Finsbury calls on the House to condemn. I am one of those who have been accused in every part of the kingdom, and who are now accused in Parliament, of aiming, under specious pretences, a blow at the civil and religious liberties of the people. It is natural therefore that I should seize the earliest opportunity of vindicating myself from so grave a charge.

The honourable Member for Finsbury must excuse me if, in the remarks which I have to offer to the House, I should not follow very closely the order of his speech. The truth is that a mere answer to his speech would be no defence of myself or of my colleagues. I am surprised, I own, that a man of his acuteness and ability should, on such an occasion, have made such a speech. The country is excited from one end to the other by a great question of principle. On that question the Government has taken one side. The honourable Member stands forth as the chosen and trusted champion of a great party which takes the other side. We expected to hear from him a full exposition of the views of those in whose name he speaks. But, to our astonishment, he has scarcely even alluded to the controversy which has divided the whole nation. He has entertained us with sarcasms and personal anecdotes: he has talked much about matters of mere detail: but I must say that, after listening with close attention to all that he has said, I am quite unable to discover whether, on the only important point which is in issue, he agrees with us or with that large and active body of Nonconformists which is diametrically opposed to us. He has sate down without dropping one word from which it is possible to discover whether he thinks that education is or that it is not a matter with which

the State ought to interfere. Yet that is the question about which the whole nation has, during several weeks, been writing, reading, speaking, hearing, thinking, petitioning, and on which it is now the duty of Parliament to pronounce a decision. That question once settled, there will be, I believe, very little room for dispute. If it be not competent to the State to interfere with the education of the people, the mode of interference recommended by the Committee of Council must of course be condemned. If it be the right and the duty of the State to make provision for the education of the people, the objections made to our plan will, in a very few words, be shown to be frivolous.

I shall take a course very different from that which has been taken by the honourable gentleman. I shall in the clearest manner profess my opinion on that great question of principle which he has studiously evaded; and for my opinion I shall give what seem to me to be unanswerable reasons.

I believe, Sir, that it is the right and the duty of the State to provide means of education for the common people. This proposition seems to me to be implied in every definition that has ever yet been given of the functions of a government. About the extent of those functions there has been much difference of opinion among ingenious men. There are some who hold that it is the business of a government to meddle with every part of the system of human life, to regulate trade by bounties and prohibitions, to regulate expenditure by sumptuary laws, to regulate literature by a censorship, to regulate religion by an inquisition. Others go to the opposite extreme, and assign to Government a very narrow sphere of action. But the very narrowest sphere that ever was assigned to govern-

ments by any school of political philosophy is quite wide enough for my purpose. On one point all the disputants are agreed. They unanimously acknowledge that it is the duty of every government to take order for giving security to the persons and property of the members of the community.

This being admitted, can it be denied that the education of the common people is a most effectual means of securing our persons and our property? Let Adam Smith answer that question for me. His authority, always high, is, on this subject, entitled to peculiar respect, because he extremely disliked busy, prying, interfering governments. He was for leaving literature, arts, sciences, to take care of themselves. He was not friendly to ecclesiastical establishments. He was of opinion that the State ought not to meddle with the education of the rich. But he has expressly told us that a distinction is to be made, particularly in a commercial and highly civilised society, between the education of the rich and the education of the poor. The education of the poor, he says, is a matter which deeply concerns the commonwealth. Just as the magistrate ought to interfere for the purpose of preventing the leprosy from spreading among the people, he ought to interfere for the purpose of stopping the progress of the moral distempers which are inseparable from ignorance. Nor can this duty be neglected without danger to the public peace. If you leave the multitude uninstructed, there is serious risk that religious animosities may produce the most dreadful disorders. The most dreadful disorders! Those are Adam Smith's own words; and prophetic words they were. Scarcely had he given this warning to our rulers when his prediction was fulfilled in a manner never to be forgotten. I speak

of the No Popery riots of 1780. I do not know that I could find in all history a stronger proof of the proposition, that the ignorance of the common people makes the property, the limbs, the lives of all classes insecure. Without the shadow of a grievance, at the summons of a madman, a hundred thousand people rise in insurrection. During a whole week, there is anarchy in the greatest and wealthiest of European cities. The Parliament is besieged. Your predecessor sits trembling in his chair, and expects every moment to see the door beaten in by the ruffians whose roar he hears all round the house. The peers are pulled out of their coaches. The bishops in their lawn are forced to fly over the tiles. The chapels of foreign ambassadors, buildings made sacred by the law of nations, are destroyed. The house of the Chief Justice is demolished. The little children of the Prime Minister are taken out of their beds and laid in their night clothes on the table of the Horse Guards, the only safe asylum from the fury of the rabble. The prisons are opened. Highwaymen, housebreakers, murderers come forth to swell the mob by which they have been set free. Thirty-six fires are blazing at once in London. Then comes the retribution. Count up all the wretches who were shot, who were hanged, who were crushed, who drank themselves to death at the rivers of gin which ran down Holborn Hill; and you will find that battles have been lost and won with a smaller sacrifice of life. And what was the cause of this calamity, a calamity which, in the history of London, ranks with the great plague and the great fire? The cause was the ignorance of a population which had been suffered, in the neighbourhood of palaces, theatres, temples, to grow up as rude and stupid as any tribe of tattooed cannibals in New Zealand. —

I might say as any drove of beasts in Smithfield Market.

The instance is striking: but it is not solitary. To the same cause are to be ascribed the riots of Nottingham, the sack of Bristol, all the outrages of Ludd, and Swing, and Rebecca, beautiful and costly machinery broken to pieces in Yorkshire, barns and haystacks blazing in Kent, fences and buildings pulled down in Wales. Could such things have been done in a country in which the mind of the labourer had been opened by education, in which he had been taught to find pleasure in the exercise of his intellect, taught to revere his Maker, taught to respect legitimate authority, and taught at the same time to seek the redress of real wrongs by peaceful and constitutional means?

This then is my argument. It is the duty of Government to protect our persons and property from danger. The gross ignorance of the common people is a principal cause of danger to our persons and property. Therefore, it is the duty of the Government to take care that the common people shall not be grossly ignorant.

And what is the alternative? It is universally allowed that, by some means, Government must protect our persons and property. If you take away education, what means do you leave? You leave means such as only necessity can justify, means which inflict a fearful amount of pain, not only on the guilty, but on the innocent who are connected with the guilty. You leave guns and bayonets, stocks and whipping-posts, treadmills, solitary cells, penal colonies, gibbets. See then how the case stands. Here is an end which, as we all agree, governments are bound to attain. There are only two ways of attaining it. One of those ways

is by making men better, and wiser, and happier. The other way is by making them infamous and miserable. Can it be doubted which we ought to prefer? Is it not strange, is it not almost incredible, that pious and benevolent men should gravely propound the doctrine that the magistrate is bound to punish and at the same time bound not to teach? To me it seems quite clear that whoever has a right to hang has a right to educate. Can we think without shame and remorse that more than half of those wretches who have been tied up at Newgate in our time might have been living happily, that more than half of those who are now in our gaols might have been enjoying liberty and using that liberty well, that such a hell on earth as Norfolk Island need never have existed, if we had expended in training honest men but a small part of what we have expended in hunting and torturing rogues.

I would earnestly entreat every gentleman to look at a report which is contained in the Appendix to the First Volume of the Minutes of the Committee of Council. I speak of the report made by Mr. Seymour Tremenheere on the state of that part of Monmouthshire which is inhabited by a population chiefly employed in mining. He found that, in this district, towards the close of 1839, out of eleven thousand children who were of an age to attend school, eight thousand never went to any school at all, and that most of the remaining three thousand might almost as well have gone to no school as to the squalid hovels in which men who ought themselves to have been learners pretended to teach. In general these men had only one qualification for their employment; and that was their utter unfitness for every other employment. They were disabled miners, or broken hucksters. In

their schools all was stench, and noise, and confusion. Now and then the clamour of the boys was silenced for two minutes by the furious menaces of the master; but it soon broke out again. The instruction given was of the lowest kind. Not one school in ten was provided with a single map. This is the way in which you suffered the minds of a great population to be formed. And now for the effects of your negligence. The barbarian inhabitants of this region rise in an insane rebellion against the Government. They come pouring down their valleys to Newport. They fire on the Queen's troops. They wound a magistrate. The soldiers fire in return; and too many of these wretched men pay with their lives the penalty of their crime. But is the crime theirs alone? Is it strange that they should listen to the only teaching that they had? How can you, who took no pains to instruct them, blame them for giving ear to the demagogue who took pains to delude them? We put them down of course. We punish them. We had no choice. Order must be maintained; property must be protected; and, since we had omitted to take the best way of keeping these people quiet, we were under the necessity of keeping them quiet by the dread of the sword and the halter. But could any necessity be more cruel? And which of us would run the risk of being placed under such necessity a second time?

I say, therefore, that the education of the people is not only a means, but the best means, of attaining that which all allow to be a chief end of government; and, if this be so, it passes my faculties to understand how any man can gravely contend that Government has nothing to do with the education of the people.

My confidence in my opinion is strengthened when

I recollect that I hold that opinion in common with all the greatest lawgivers, statesmen, and political philosophers of all nations and ages, with all the most illustrious champions of civil and spiritual freedom, and especially with those men whose names were once held in the highest veneration by the Protestant Dissenters of England. I might cite many of the most venerable names of the old world; but I would rather cite the example of that country which the supporters of the Voluntary system here are always recommending to us as a pattern. Go back to the days when the little society which has expanded into the opulent and enlightened commonwealth of Massachusetts began to exist. Our modern Dissenters will scarcely, I think, venture to speak contumeliously of those Puritans whose spirit Laud and his High Commission Court could not subdue, of those Puritans who were willing to leave home and kindred, and all the comforts and refinements of civilised life, to cross the ocean, to fix their abode in forests among wild beasts and wild men, rather than commit the sin of performing, in the House of God, one gesture which they believed to be displeasing to Him. Did those brave exiles think it inconsistent with civil or religious freedom that the State should take charge of the education of the people? No, Sir; one of the earliest laws enacted by the Puritan colonists was that every township, as soon as the Lord had increased it to the number of fifty houses, should appoint one to teach all children to write and read, and that every township of a hundred houses should set up a grammar school. Nor have the descendants of those who made this law ever ceased to hold that the public authorities were bound to provide the means of public instruction. Nor is this doctrine confined to New Eng-

land. "Educate the people" was the first admonition addressed by Penn to the colony which he founded. "Educate the people" was the legacy of Washington to the nation which he had saved. "Educate the people" was the unceasing exhortation of Jefferson; and I quote Jefferson with peculiar pleasure, because, of all the eminent men that have ever lived, Adam Smith himself not excepted, Jefferson was the one who most abhorred everything like meddling on the part of governments. Yet the chief business of his later years was to establish a good system of State education in Virginia.

And, against such authority as this, what have you who take the other side to show? Can you mention a single great philosopher, a single man distinguished by his zeal for liberty, humanity, and truth, who from the beginning of the world down to the time of this present Parliament, ever held your doctrines? You can oppose to the unanimous voice of all the wise and good, of all ages, and of both hemispheres, nothing but a clamour which was first heard a few months ago, a clamour in which you cannot join without condemning, not only all whose memory you profess to hold in reverence, but even your former selves.

This new theory of politics has at least the merit of originality. It may be fairly stated thus: All men have hitherto been utterly in the wrong as to the nature and objects of civil government. The great truth, hidden from every preceding generation, and at length revealed, in the year 1846, to some highly respectable ministers and elders of dissenting congregations, is this. Government is simply a great hangman. Government ought to do nothing except by harsh and degrading means. The one business of Government is to hand-

cuff, and lock up, and scourge, and shoot, and stab, and strangle. It is odious tyranny in a government to attempt to prevent crime by informing the understanding and elevating the moral feeling of a people. A statesman may see hamlets turned, in the course of one generation, into great seaport towns and manufacturing towns. He may know that on the character of the vast population which is collected in those wonderful towns, depends the prosperity, the peace, the very existence of society. But he must not think of forming that character. He is an enemy of public liberty if he attempts to prevent those hundreds of thousands of his countrymen from becoming mere Yahoos. He may, indeed, build barrack after barrack to overawe them. If they break out into insurrection, he may send cavalry to sabre them: he may mow them down with grape shot: he may hang them, draw them, quarter them; anything but teach them. He may see, and may shudder as he sees, throughout large rural districts, millions of infants growing up from infancy to manhood as ignorant, as mere slaves of sensual appetite, as the beasts that perish. No matter. He is a traitor to the cause of civil and religious freedom if he does not look on with folded arms, while absurd hopes and evil passions ripen in that rank soil. He must wait for the day of his harvest. He must wait till the Jaquerie comes, till farm houses are burning, till threshing machines are broken in pieces; and then begins his business, which is simply to send one poor ignorant savage to the county gaol, and another to the antipodes, and a third to the gallows.

Such, Sir, is the new theory of government which was first propounded, in the year 1846, by some men of high note among the Nonconformists of England. It

is difficult to understand how men of excellent abilities and excellent intentions — and there are, I readily admit, such men among those who hold this theory — can have fallen into so absurd and pernicious an error. One explanation only occurs to me. This is, I am inclined to believe, an instance of the operation of the great law of reaction. We have just come victorious out of a long and fierce contest for the liberty of trade. While that contest was undecided, much was said and written about the advantages of free competition, and about the danger of suffering the State to regulate matters which should be left to individuals. There has consequently arisen in the minds of persons who are led by words, and who are little in the habit of making distinctions, a disposition to apply to political questions and moral questions principles which are sound only when applied to commercial questions. These people, not content with having forced the Government to surrender a province wrongfully usurped, now wish to wrest from the Government a domain held by a right which was never before questioned, and which cannot be questioned with the smallest show of reason. "If," they say, "free competition is a good thing in trade, it must surely be a good thing in education. The supply of other commodities — of sugar, for example — is left to adjust itself to the demand; and the consequence is, that we are better supplied with sugar than if the Government undertook to supply us. Why then should we doubt that the supply of instruction will, without the intervention of the Government, be found equal to the demand?"

Never was there a more false analogy. Whether a man is well supplied with sugar is a matter which concerns himself alone. But whether he is well supplied

with instruction is a matter which concerns his neighbours and the State. If he cannot afford to pay for sugar, he must go without sugar. But it is by no means fit that, because he cannot afford to pay for education, he should go without education. Between the rich and their instructors there may, as Adam Smith says, be free trade. The supply of music masters and Italian masters may be left to adjust itself to the demand. But what is to become of the millions who are too poor to procure without assistance the services of a decent schoolmaster? We have indeed heard it said that even these millions will be supplied with teachers by the free competition of benevolent individuals who will vie with each other in rendering this service to mankind. No doubt there are many benevolent individuals who spend their time and money most laudably in setting up and supporting schools; and you may say, if you please, that there is, among these respectable persons, a competition to do good. But do not be imposed upon by words. Do not believe that this competition resembles the competition which is produced by the desire of wealth and by the fear of ruin. There is a great difference, be assured, between the rivalry of philanthropists and the rivalry of grocers. The grocer knows that, if his wares are worse than those of other grocers, he shall soon go before the Bankrupt Court, and his wife and children will have no refuge but the workhouse: he knows that, if his shop obtains an honourable celebrity, he shall be able to set up a carriage and buy a villa: and this knowledge impels him to exertions compared with which the exertions of even very charitable people to serve the poor are but languid. It would be strange infatuation indeed to legislate on the

supposition that a man cares for his fellow creatures as much as he cares for himself.

Unless, Sir, I greatly deceive myself, those arguments, which show that the Government ought not to leave to private people the task of providing for the national defence, will equally show that the Government ought not to leave to private people the task of providing for national education. On this subject, Mr. Hume has laid down the general law with admirable good sense and perspicuity. I mean David Hume, not the Member for Montrose, though that honourable gentleman will, I am confident, assent to the doctrine propounded by his illustrious namesake. David Hume, Sir, justly says that most of the arts and trades which exist in the world produce so much advantage and pleasure to individuals, that the magistrate may safely leave it to individuals to encourage those arts and trades. But he adds that there are callings which, though they are highly useful, nay, absolutely necessary to society, yet do not administer to the peculiar pleasure or profit of any individual. The military calling is an instance. Here, says Hume, the government must interfere. It must take on itself to regulate these callings, and to stimulate the industry of the persons who follow these callings by pecuniary and honorary rewards.

Now, Sir, it seems to me that, on the same principle on which Government ought to superintend and to reward the soldier, Government ought to superintend and to reward the schoolmaster. I mean, of course, the schoolmaster of the common people. That his calling is useful, that his calling is necessary, will hardly be denied. Yet it is clear that his services will not be adequately remunerated if he is left to be re-

munerated by those whom he teaches, or by the voluntary contributions of the charitable. Is this disputed? Look at the facts. You tell us that schools will multiply and flourish exceedingly, if the Government will only abstain from interfering with them. Has not the Government long abstained from interfering with them? Has not everything been left, through many years, to individual exertion? If it were true that education, like trade, thrives most where the magistrate meddles least, the common people of England would now be the best educated in the world. Our schools would be model schools. Every one would have a well chosen little library, excellent maps, a small but neat apparatus for experiments in natural philosophy. A grown person unable to read and write would be pointed at like Giant O'Brien or the Polish Count. Our schoolmasters would be as eminently expert in all that relates to teaching as our cutlers, our cottonspinners, our engineers are allowed to be in their respective callings. They would, as a class, be held in high consideration; and their gains would be such that it would be easy to find men of respectable character and attainments to fill up vacancies.

Now, is this the case? Look at the charges of the judges, at the resolutions of the grand juries, at the reports of public officers, at the reports of voluntary associations. All tell the same sad and ignominious story. Take the reports of the Inspectors of Prisons. In the House of Correction at Hertford, of seven hundred prisoners one half could not read at all; only eight could read and write well. Of eight thousand prisoners who had passed through Maidstone gaol only fifty could read and write well. In Coldbath Fields

Prison, the proportion that could read and write well seems to have been still smaller. Turn from the registers of prisoners to the registers of marriages. You will find that about a hundred and thirty thousand couples were married in the year 1844. More than forty thousand of the bridegrooms and more than sixty thousand of the brides did not sign their names, but made their marks. Nearly one third of the men and nearly one half of the women, who are in the prime of life, who are to be the parents of the Englishmen of the next generation, who are to bear a chief part in forming the minds of the Englishmen of the next generation, cannot write their own names. Remember, too, that, though people who cannot write their own names must be grossly ignorant, people may write their own names and yet have very little knowledge. Tens of thousands who were able to write their names had in all probability received only the wretched education of a common day school. We know what such a school too often is; a room crusted with filth, without light, without air, with a heap of fuel in one corner and a brood of chickens in another; the only machinery of instruction a dogeared spellingbook and a broken slate; the masters the refuse of all other callings, — discarded footmen, ruined pedlars, men who cannot work a sum in the rule of three, men who cannot write a common letter without blunders, men who do not know whether the earth is a sphere or a cube, men who do not know whether Jerusalem is in Asia or America. And to such men, men to whom none of us would entrust the key of his cellar, we have entrusted the mind of the rising generation, and, with the mind of the rising generation, the freedom, the happiness, the glory of our country.

Do you question the accuracy of this description? I will produce evidence to which I am sure that you will not venture to take an exception. Every gentleman here knows, I suppose, how important a place the Congregational Union holds among the Nonconformists, and how prominent a part Mr. Edward Baines has taken in opposition to State education. A Committee of the Congregational Union drew up last year a report on the subject of education. That report was received by the Union; and the person who moved that it should be received was Mr. Edward Baines. That report contains the following passage: "If it were necessary to disclose facts to such an assembly as this, as to the ignorance and debasement of the neglected portions of our population in towns and rural districts, both adult and juvenile, it could easily be done. Private information communicated to the Board, personal observation and investigation of the various localities, with the published documents of the Registrar General, and the reports of the state of prisons in England and Wales, published by order of the House of Commons, would furnish enough to make us modest in speaking of what has been done for the humbler classes, and make us ashamed that the sons of the soil of England should have been so long neglected, and should present to the enlightened traveller from other shores such a sad spectacle of neglected cultivation, lost mental power, and spiritual degradation." Nothing can be more just. All the information which I have been able to obtain bears out the statements of the Congregational Union. I do believe that the ignorance and degradation of a large part of the community to which we belong ought to make us ashamed of ourselves. I do believe that an

enlightened traveller from New York, from Geneva, or from Berlin would be shocked to see so much barbarism in the close neighbourhood of so much wealth and civilisation. But is it not strange that the very gentlemen who tell us in such emphatic language that the people are shamefully ill educated, should yet persist in telling us that under a system of free competition the people are certain to be excellently educated? Only this morning the opponents of our plan circulated a paper in which they confidently predict that free competition will do all that is necessary, if we will only wait with patience. Wait with patience! Why, we have been waiting ever since the Heptarchy. How much longer are we to wait? Till the year 2847? Or till the year 3847? That the experiment has as yet failed you do not deny. And why should it have failed? Has it been tried in unfavourable circumstances? Not so; it has been tried in the richest, and in the freest, and in the most charitable country in all Europe. Has it been tried on too small a scale? Not so: millions have been subjected to it. Has it been tried during too short a time? Not so: it has been going on during ages. The cause of the failure then is plain. Our whole system has been unsound. We have applied the principle of free competition to a case to which that principle is not applicable.

But, Sir, if the state of the southern part of our island has furnished me with one strong argument, the state of the northern part furnishes me with another argument, which is, if possible, still more decisive. A hundred and fifty years ago England was one of the best governed and most prosperous countries in the world: Scotland was perhaps the rudest and poorest country that could lay any claim to civilisation.

The name of Scotchman was then uttered in this part of the island with contempt. The ablest Scotch statesman contemplated the degraded state of their poorer countrymen with a feeling approaching to despair. It is well known that Fletcher of Saltoun, a brave and accomplished man, a man who had drawn his sword for liberty, who had suffered proscription and exile for liberty, was so much disgusted and dismayed by the misery, the ignorance, the idleness, the lawlessness of the common people, that he proposed to make many thousands of them slaves. Nothing, he thought, but the discipline which kept order and enforced exertion among the negroes of a sugar colony, nothing but the lash and the stocks, could reclaim the vagabonds who infested every part of Scotland from their indolent and predatory habits, and compel them to support themselves by steady labour. He therefore, soon after the Revolution, published a pamphlet, in which he earnestly, and, as I believe, from the mere impulse of humanity and patriotism, recommended to the Estates of the Realm this sharp remedy, which alone, as he conceived, could remove the evil. Within a few months after the publication of that pamphlet a very different remedy was applied. The Parliament which sate at Edinburgh passed an act for the establishment of parochial schools. What followed? An improvement such as the world had never seen took place in the moral and intellectual character of the people. Soon, in spite of the rigour of the climate, in spite of the sterility of the earth, Scotland became a country which had no reason to envy the fairest portions of the globe. Wherever the Scotchman went, — and there were few parts of the world to which he did not go, — he carried his superiority with him. If he was admit-

ted into a public office, he worked his way up to the highest post. If he got employment in a brewery or a factory, he was soon the foreman. If he took a shop, his trade was the best in the street. If he enlisted in the army, he became a colour-serjeant. If he went to a colony, he was the most thriving planter there. The Scotchman of the seventeenth century had been spoken of in London as we speak of the Esquimaux. The Scotchman of the eighteenth century was an object, not of scorn, but of envy. The cry was that, wherever he came, he got more than his share; that, mixed with Englishmen or mixed with Irishmen, he rose to the top as surely as oil rises to the top of water. And what had produced this great revolution? The Scotch air was still as cold, the Scotch rocks were still as bare as ever. All the natural qualities of the Scotchman were still what they had been when learned and benevolent men advised that he should be flogged, like a beast of burden, to his daily task. But the State had given him an education. That education was not, it is true, in all respects what it should have been. But, such as it was, it had done more for the bleak and dreary shores of the Forth and the Clyde than the richest of soils and the most genial of climates had done for Capua and Tarentum. Is there one member of this House, however strongly he may hold the doctrine that the Government ought not to interfere with the education of the people, who will stand up and say that, in his opinion, the Scotch would now have been a happier and a more enlightened people if they had been left, during the last five generations, to find instruction for themselves?

I say, then, Sir, that, if the science of Government be an experimental science, this question is decided. We

are in a condition to perform the inductive process according to the rules laid down in the Novum Organum. We have two nations closely connected, inhabiting the same island, sprung from the same blood, speaking the same language, governed by the same Sovereign and the same Legislature, holding essentially the same religious faith, having the same allies and the same enemies. Of these two nations one was, a hundred and fifty years ago, as respects opulence and civilisation, in the highest rank among European communities, the other in the lowest rank. The opulent and highly civilised nation leaves the education of the people to free competition. In the poor and half barbarous nation the education of the people is undertaken by the State. The result is that the first are last and the last first. The common people of Scotland — it is vain to disguise the truth — have passed the common people of England. Free competition, tried with every advantage, has produced effects of which, as the Congregational Union tells us, we ought to be ashamed, and which must lower us in the opinion of every intelligent foreigner. State education, tried under every disadvantage, has produced an improvement to which it would be difficult to find a parallel in any age or country. Such an experiment as this would be regarded as conclusive in surgery or chemistry, and ought, I think, to be regarded as equally conclusive in politics.

These, Sir, are the reasons which have satisfied me that it is the duty of the State to educate the people. Being firmly convinced of that truth, I shall not shrink from proclaiming it here and elsewhere, in defiance of the loudest clamour that agitators can raise. The remainder of my task is easy. For, if the great principle

for which I have been contending is admitted, the objections which have been made to the details of our plan will vanish fast. I will deal with those objections in the order in which they stand in the amendment moved by the honourable Member for Finsbury.

First among his objections he places the cost. Surely, Sir, no person who admits that it is our duty to train the minds of the rising generation can think a hundred thousand pounds too large a sum for that purpose. If we look at the matter in the lowest point of view, if we consider human beings merely as producers of wealth, the difference between an intelligent and a stupid population, estimated in pounds, shillings, and pence, exceeds a hundredfold the proposed outlay. Nor is this all. For every pound that you save in education, you will spend five in prosecutions, in prisons, in penal settlements. I cannot believe that the House, having never grudged anything that was asked for the purpose of maintaining order and protecting property by means of pain and fear, will begin to be niggardly as soon as it is proposed to effect the same objects by making the people wiser and better.

The next objection made by the honourable member to our plan is that it will increase the influence of the Crown. This sum of a hundred thousand pounds may, he apprehends, be employed in corruption and jobbing. Those schoolmasters who vote for ministerial candidates will obtain a share of the grant: those schoolmasters who vote for opponents of the ministry will apply for assistance in vain. Sir, the honourable member never would have made this objection if he had taken the trouble to understand the minutes which he has condemned. We propose to place this part of the public expenditure under checks which must make

such abuses as the honourable member anticipates morally impossible. Not only will there be those ordinary checks which are thought sufficient to prevent the misapplication of the many millions annually granted for the army, the navy, the ordnance, the civil government: not only must the Ministers of the Crown come every year to this House for a vote, and be prepared to render an account of the manner in which they have laid out what had been voted in the preceding year; but, when they have satisfied the House, when they have got their vote, they will still be unable to distribute the money at their discretion. Whatever they may do for any schoolmaster must be done in concert with those persons who, in the district where the schoolmaster lives, take an interest in education, and contribute out of their private means to the expense of education. When the honourable gentleman is afraid that we shall corrupt the schoolmasters, he forgets, first, that we do not appoint the schoolmasters; secondly, that we cannot dismiss the schoolmasters; thirdly, that managers who are altogether independent of us can, without our consent, dismiss the schoolmasters; and fourthly, that without the recommendation of these managers we can give nothing to the schoolmasters. Observe, too, that such a recommendation will not be one of those recommendations which goodnatured easy people are too apt to give to everybody who asks; nor will it at all resemble those recommendations which the Secretary of the Treasury is in the habit of receiving. For every pound which we pay on the recommendation of the managers, the managers themselves must pay two pounds. They must also provide the schoolmaster with a house out of their own funds before they can obtain for him a grant from

the public funds. What chance of jobbing is there here? It is common enough, no doubt, for a Member of Parliament who votes with Government to ask that one of those who zealously supported him at the last election may have a place in the Excise or the Customs. But such a member would soon cease to solicit if the answer were, "Your friend shall have a place of fifty pounds a year, if you will give him a house and settle on him an income of a hundred a year." What chance then, I again ask, is there of jobbing? What, say some of the dissenters of Leeds, is to prevent a Tory Government, a High Church Government, from using this parliamentary grant to corrupt the schoolmasters of our borough, and to induce them to use all their influence in favour of a Tory and High Church candidate? Why, Sir, the dissenters of Leeds themselves have the power to prevent it. Let them subscribe to the schools: let them take a share in the management of the schools: let them refuse to recommend to the Committee of Council any schoolmaster whom they suspect of having voted at any election from corrupt motives: and the thing is done. Our plan, in truth, is made up of checks. My only doubt is whether the checks may not be found too numerous and too stringent. On our general conduct there is the ordinary check, the parliamentary check. And, as respects those minute details which it is impossible that this House can investigate, we shall be checked, in every town and in every rural district, by boards consisting of independent men zealous in the cause of education.

The truth is, Sir, that those who clamour most loudly against our plan, have never thought of ascertaining what it is. I see that a gentleman, who ought to

have known better, has not been ashamed publicly to tell the world that our plan will cost the nation two millions a year, and will paralyse all the exertions of individuals to educate the people. These two assertions are uttered in one breath. And yet, if he who made them had read our minutes before he railed at them, he would have seen that his predictions are contradictory; that they cannot both be fulfilled; that, if individuals do not exert themselves, the country will have to pay nothing; and that, if the country has to pay two millions, it will be because individuals have exerted themselves with such wonderful, such incredible, vigour, as to raise four millions by voluntary contributions.

The next objection made by the honourable Member for Finsbury is that we have acted unconstitutionally, and have encroached on the functions of Parliament. The Committee of Council he seems to consider as an unlawful assembly. He calls it sometimes a self elected body, and sometimes a self appointed body. Sir, these are words without meaning. The Committee is no more a self elected body than the Board of Trade. It is a body appointed by the Queen; and in appointing it Her Majesty has exercised, under the advice of her responsible Ministers, a prerogative as old as the monarchy. But, says the honourable member, the constitutional course would have been to apply for an Act of Parliament. On what ground? Nothing but an Act of Parliament can legalise that which is illegal. But whoever heard of an Act of Parliament to legalise what was already beyond all dispute legal? Of course, if we wished to send aliens out of the country, or to detain disaffected persons in custody without bringing them to trial, we must obtain an Act of Par-

liament empowering us to do so. But why should we ask for an Act of Parliament to empower us to do what anybody may do, what the honourable Member for Finsbury may do? Is there any doubt that he or anybody else may subscribe to a school, give a stipend to a monitor, or settle a retiring pension on a preceptor who has done good service? What any of the Queen's subjects may do the Queen may do. Suppose that her privy purse were so large that she could afford to employ a hundred thousand pounds in this beneficent manner; would an Act of Parliament be necessary to enable her to do so? Every part of our plan may lawfully be carried into execution by any person, Sovereign or subject, who has the inclination and the money. We have not the money; and for the money we come, in a strictly constitutional manner, to the House of Commons. The course which we have taken is in conformity with all precedent, as well as with all principle. There are military schools. No Act of Parliament was necessary to authorise the establishing of such schools. All that was necessary was a grant of money to defray the charge. When I was Secretary at War it was my duty to bring under Her Majesty's notice the situation of the female children of her soldiers. Many such children accompanied every regiment, and their education was grievously neglected. Her Majesty was graciously pleased to sign a warrant by which a girls' school was attached to each corps. No Act of Parliament was necessary. For to set up a school where girls might be taught to read, and write, and sew, and cook, was perfectly legal already. I might have set it up myself, if I had been rich enough. All that I had to ask from Parliament was the money. But I ought to beg pardon for arguing a point so clear.

The next objection to our plans is that they interfere with the religious convictions of Her Majesty's subjects. It has been sometimes insinuated, but it has never been proved, that the Committee of Council has shown undue favour to the Established Church. Sir, I have carefully read and considered the minutes; and I wish that every man who has exerted his eloquence against them had done the same. I say that I have carefully read and considered them, and that they seem to me to have been drawn up with exemplary impartiality. The benefits which we offer we offer to people of all religious persuasions alike. The dissenting managers of schools will have equal authority with the managers who belong to the Church. A boy who goes to meeting will be just as eligible to be a monitor, and will receive just as large a stipend, as if he went to the cathedral. The schoolmaster who is a nonconformist and the schoolmaster who is a conformist will enjoy the same emoluments, and will, after the same term of service, obtain, on the same conditions, the same retiring pension. I wish that some gentleman would, instead of using vague phrases about religious liberty and the rights of conscience, answer this plain question. Suppose that in one of our large towns there are four schools, a school connected with the Church, a school connected with the Independents, a Baptist school, and a Wesleyan school; what encouragement, pecuniary or honourary, will, by our plan, be given to the school connected with the Church, and withheld from any of the other three schools? Is it not indeed plain that, if by neglect or maladministration the Church school should get into a bad state, while the dissenting schools flourish, the dissenting schools will receive public money and the Church school will receive none?

It is true, I admit, that, in rural districts which are too poor to support more than one school, the religious community to which the majority belongs will have an advantage over other religious communities. But this is not our fault. If we are as impartial as it is possible to be, you surely do not expect more. If there should be a parish containing nine hundred churchmen and a hundred dissenters, if there should, in that parish, be a school connected with the Church, if the dissenters in that parish should be too poor to set up another school, undoubtedly the school connected with the Church will, in that parish, get all that we give; and the dissenters will get nothing. But observe that there is no partiality to the Church, as the Church, in this arrangement. The churchmen get public money, not because they are churchmen, but because they are the majority. The dissenters get nothing, not because they are dissenters, but because they are a small minority. There are districts where the case will be reversed, where there will be dissenting schools, and no Church schools. In such cases the dissenters will get what we have to give, and the churchmen will get nothing.

But, Sir, I ought not to say that a churchman gets nothing by a system which gives a good education to dissenters, or that a dissenter gets nothing by a system which gives a good education to churchmen. We are not, I hope, so much conformists, or so much nonconformists, as to forget that we are Englishmen and Christians. We all, Churchmen, Presbyterians, Independents, Baptists, Methodists, have an interest in this, that the great body of the people should be rescued from ignorance and barbarism. I mentioned Lord George Gordon's mob. That mob began, it is

true, with the Roman Catholics: but, long before the tumults were over, there was not a respectable Protestant in London who was not in fear for his house, for his limbs, for his life, for the lives of those who were dearest to him. The honourable Member for Finsbury says that we call on men to pay for an education from which they derive no benefit. I deny that there is one honest and industrious man in the country who derives no benefit from living among honest and industrious neighbours rather than among rioters and vagabonds. This matter is as much a matter of common concern as the defence of our coast. Suppose that I were to say, "Why do you tax me to fortify Portsmouth? If the people of Portsmouth think that they cannot be safe without bastions and ravelins, let the people of Portsmouth pay the engineers and masons. Why am I to bear the charge of works from which I derive no advantage?" You would answer, and most justly, that there is no man in the island who does not derive advantage from these works, whether he resides within them or not. And, as every man, in whatever part of the island he may live, is bound to contribute to the support of those arsenals which are necessary for our common security, so is every man, to whatever sect he may belong, bound to contribute to the support of those schools on which, not less than on our arsenals, our common security depends.

I now come to the last words of the amendment. The honourable Member for Finsbury is apprehensive that our plan may interfere with the civil rights of Her Majesty's subjects. How a man's civil rights can be prejudiced by his learning to read and write, to multiply and divide, or even by his obtaining some knowledge of history and geography, I do not very

well apprehend. One thing is clear, that persons sunk in that ignorance in which, as we are assured by the Congregational Union, great numbers of our countrymen are sunk, can be free only in name. It is hardly necessary for us to appoint a Select Committee for the purpose of inquiring whether knowledge be the ally or the enemy of liberty. He is, I must say, but a short-sighted friend of the common people who is eager to bestow on them a franchise which would make them all-powerful, and yet would withhold from them that instruction without which their power must be a curse to themselves and to the State.

This, Sir, is my defence. From the clamour of our accusers I appeal with confidence to the country to which we must, in no long time, render an account of our stewardship. I appeal with still more confidence to future generations, which, while enjoying all the blessings of an impartial and efficient system of public instruction, will find it difficult to believe that the authors of that system should have had to struggle with a vehement and pertinacious opposition, and still more difficult to believe that such an opposition was offered in the name of civil and religious freedom.

A SPEECH

DELIVERED AT THE COLLEGE OF GLASGOW, ON THE 21ST OF MARCH, 1849.

At the election of a Lord Rector of the University of Glasgow, in November, 1848, the votes stood thus:

Mr. Macaulay	255
Colonel Mure	203

The installation took place on the 21st of March, 1849; and after that ceremony had been performed, the following Speech was delivered: —

My first duty, Gentlemen, is to return you my thanks for the honour which you have conferred on me. You well know that it was wholly unsolicited; and I can assure you that it was wholly unexpected. I may add that, if I had been invited to become a candidate for your suffrages, I should respectfully have declined the invitation. My predecessor, whom I am so happy as to be able to call my friend, declared from this place last year, in language which well became him, that he would not have come forward to displace so eminent a statesman as Lord John Russell. I can with equal truth affirm that I would not have come forward to displace so estimable a gentleman and so accomplished a scholar as Colonel Mure. But Colonel Mure felt last year that it was not for him, and I now feel that it is not for me, to question the propriety of your decision on a point of which, by the constitution of your body, you are the judges. I therefore gratefully

accept the office to which I have been called, fully purposing to use whatever powers belong to it with a single view to the welfare and credit of your society.

I am not using a mere phrase of course, when I say that the feelings with which I bear a part in the ceremony of this day are such as I find it difficult to utter in words. I do not think it strange that, when that great master of eloquence, Edmund Burke, stood where I now stand, he faltered and remained mute. Doubtless the multitude of thoughts which rushed into his mind was such as even he could not easily arrange or express. In truth there are few spectacles more striking or affecting than that which a great historical place of education presents on a solemn public day. There is something strangely interesting in the contrast between the venerable antiquity of the body and the fresh and ardent youth of the great majority of the members. Recollections and hopes crowd upon us together. The past and the future are at once brought close to us. Our thoughts wander back to the time when the foundations of this ancient building were laid, and forward to the time when those whom it is our office to guide and to teach will be the guides and teachers of our posterity. On the present occasion we may, with peculiar propriety, give such thoughts their course. For it has chanced that my magistracy has fallen on a great secular epoch. This is the four hundredth year of the existence of your University. At such jubilees, jubilees of which no individual sees more than one, it is natural, and it is good, that a society like this, a society which survives all the transitory parts of which it is composed, a society which has a corporate existence and a perpetual succession, should review its annals, should

retrace the stages of its growth from infancy to maturity, and should try to find, in the experience of generations which have passed away, lessons which may be profitable to generations yet unborn.

The retrospect is full of interest and instruction. Perhaps it may be doubted whether, since the Christian era, there has been any point of time more important to the highest interests of mankind than that at which the existence of your University commenced. It was at the moment of a great destruction and of a great creation. Your society was instituted just before the empire of the East perished; that strange empire which, dragging on a languid life through the great age of darkness, connected together the two great ages of light; that empire which, adding nothing to our stores of knowledge, and producing not one man great in letters, in science, or in art, yet preserved, in the midst of barbarism, those masterpieces of Attic genius which the highest minds still contemplate, and long will contemplate, with admiring despair. And at that very time, while the fanatical Moslem were plundering the churches and palaces of Constantinople, breaking in pieces Grecian sculptures, and giving to the flames piles of Grecian eloquence, a few humble German artisans, who little knew that they were calling into existence a power far mightier than that of the victorious Sultan, were busied in cutting and setting the first types. The University came into existence just in time to witness the disappearance of the last trace of the Roman empire, and to witness the publication of the earliest printed book.

At this conjuncture, a conjuncture of unrivalled interest in the history of letters, a man, never to be

mentioned without reverence by every lover of letters, held the highest place in Europe. Our just attachment to that Protestant faith to which our country owes so much must not prevent us from paying the tribute which, on this occasion, and in this place, justice and gratitude demand, to the founder of the University of Glasgow, the greatest of the restorers of learning, Pope Nicholas the Fifth. He had sprung from the common people; but his abilities and his erudition had early attracted the notice of the great. He had studied much and travelled far. He had visited Britain, which, in wealth and refinement, was to his native Tuscany what the back settlements of America now are to Britain. He had lived with the merchant princes of Florence, those men who first ennobled trade by making trade the ally of philosophy, of eloquence, and of taste. It was he who, under the protection of the munificent and discerning Cosmo, arranged the first public library that modern Europe possessed. From privacy your founder rose to a throne; but on the throne he never forgot the studies which had been his delight in privacy. He was the centre of an illustrious group, composed partly of the last great scholars of Greece, and partly of the first great scholars of Italy, Theodore Gaza and George of Trebizond, Bessarion and Filelfo, Marsilio Ficino and Poggio Bracciolini. By him was founded the Vatican library, then and long after the most precious and the most extensive collection of books in the world. By him were carefully preserved the most valuable intellectual treasures which had been snatched from the wreck of the Byzantine empire. His agents were to be found everywhere, in the bazaars of the farthest East, in the monasteries of the farthest West, pur-

chasing or copying wormeaten parchments, on which were traced words worthy of immortality. Under his patronage were prepared accurate Latin versions of many precious remains of Greek poets and philosophers. But no department of literature owes so much to him as history. By him were introduced to the knowledge of Western Europe two great and unrivalled models of historical composition, the work of Herodotus and the work of Thucydides. By him, too, our ancestors were first made acquainted with the graceful and lucid simplicity of Xenophon and with the manly good sense of Polybius.

It was while he was occupied with cares like these that his attention was called to the intellectual wants of this region, a region now swarming with population, rich with culture, and resounding with the clang of machinery, a region which now sends forth fleets laden with its admirable fabrics to the lands of which in his days, no geographer had ever heard, then a wild, a poor, a half barbarous tract, lying on the utmost verge of the known world. He gave his sanction to the plan of establishing a University at Glasgow, and bestowed on the new seat of learning all the privileges which belonged to the University of Bologna. I can conceive that a pitying smile passed over his face as he named Bologna and Glasgow together. At Bologna he had long studied. No spot in the world had been more favoured by nature or by art. The surrounding country was a fruitful and sunny country, a country of cornfields and vineyards. In the city, the house of Bentivoglio bore rule, a house which vied with the house of Medici in taste and magnificence, which has left to posterity noble palaces and temples, and which gave a splendid patronage to arts and letters. Glas-

gow your founder just knew to be a poor, a small, a rude town, a town, as he would have thought, not likely ever to be great and opulent; for the soil, compared with the rich country at the foot of the Apennines, was barren, and the climate was such that an Italian shuddered at the thought of it. But it is not on the fertility of the soil, it is not on the mildness of the atmosphere, that the prosperity of nations chiefly depends. Slavery and superstition can make Campania a land of beggars, and can change the plain of Enna into a desert. Nor is it beyond the power of human intelligence and energy, developed by civil and spiritual freedom, to turn sterile rocks and pestilential marshes into cities and gardens. Enlightened as your founder was, he little knew that he was himself a chief agent in a great revolution, physical and moral, political and religious, in a revolution, destined to make the last first and the first last, in a revolution destined to invert the relative positions of Glasgow and Bologna. We cannot, I think, better employ a few minutes than in reviewing the stages of this great change in human affairs.

The review shall be short. Indeed I cannot do better than pass rapidly from century to century. Look at the world, then, a hundred years after the seal of Nicholas had been affixed to the instrument which called your college into existence. We find Europe, we find Scotland especially, in the agonies of that great revolution which we emphatically call the Reformation. The liberal patronage which Nicholas, and men like Nicholas, had given to learning, and of which the establishment of this seat of learning is not the least remarkable instance, had produced an effect which they had never contemplated. Ignorance was

the talisman on which their power depended; and that talisman they had themselves broken. They had called in Knowledge as a handmaid to decorate Superstition, and their error produced its natural effect. I need not tell you what a part the votaries of classical learning, and especially the votaries of Greek learning, the Humanists, as they were then called, bore in the great movement against spiritual tyranny. They formed, in fact, the vanguard of that movement. Every one of the chief Reformers — I do not at this moment remember a single exception — was a Humanist. Almost every eminent Humanist in the north of Europe was, according to the measure of his uprightness and courage, a Reformer. In a Scottish University I need hardly mention the names of Knox, of Buchanan, of Melville, of Secretary Maitland. In truth, minds daily nourished with the best literature of Greece and Rome necessarily grew too strong to be trammelled by the cobwebs of the scholastic divinity; and the influence of such minds was now rapidly felt by the whole community; for the invention of printing had brought books within the reach even of yeomen and of artisans. From the Mediterranean to the Frozen Sea, therefore, the public mind was everywhere in a ferment; and nowhere was the ferment greater than in Scotland. It was in the midst of martyrdoms and proscriptions, in the midst of a war between power and truth, that the first century of the existence of your University closed.

Pass another hundred years; and we are in the midst of another revolution. The war between Popery and Protestantism had, in this island, been terminated by the victory of Protestantism. But from that war another war had sprung, the war

between Prelacy and Puritanism. The hostile religious sects were allied, intermingled, confounded with hostile political parties. The monarchical element of the constitution was an object of almost exclusive devotion to the Prelatist. The popular element of the constitution was especially dear to the Puritan. At length an appeal was made to the sword. Puritanism triumphed; but Puritanism was already divided against itself. Independency and Republicanism were on one side, Presbyterianism and limited Monarchy on the other. It was in the very darkest part of that dark time, it was in the midst of battles, sieges, and executions, it was when the whole world was still aghast at the awful spectacle of a British King standing before a judgment seat and laying his neck on a block, it was when the mangled remains of the Duke of Hamilton had just been laid in the tomb of his house, it was when the head of the Marquess of Montrose had just been fixed on the Tolbooth of Edinburgh, that your University completed her second century.

A hundred years more; and we have at length reached the beginning of a happier period. Our civil and religious liberties had indeed been bought with a fearful price. But they had been bought. The price had been paid. The last battle had been fought on British ground. The last black scaffold had been set up on Tower Hill. The evil days were over. A bright and tranquil century, a century of religious toleration, of domestic peace, of temperate freedom, of equal justice, was beginning. That century is now closing. When we compare it with any equally long period in the history of any other great society, we shall find abundant cause for thankfulness to the Giver of all good. Nor is there any place in the whole

kingdom better fitted to excite this feeling than the place where we are now assembled. For in the whole kingdom we shall find no district in which the progress of trade, of manufactures, of wealth, and of the arts of life, has been more rapid than in Clydesdale. Your University has partaken largely of the prosperity of this city and of the surrounding region. The security, the tranquillity, the liberty, which have been propitious to the industry of the merchant and of the manufacturer, have been also propitious to the industry of the scholar. To the last century belong most of the names of which you justly boast. The time would fail me if I attempted to do justice to the memory of all the illustrious men who, during that period, taught or learned wisdom within these ancient walls; geometricians, anatomists, jurists, philologists, metaphysicians, poets; Simpson and Hunter, Millar and Young, Reid and Stewart; Campbell, whose coffin was lately borne to a grave in that renowned transept which contains the dust of Chaucer, of Spenser, and of Dryden; Black, whose discoveries form an era in the history of chemical science; Adam Smith, the greatest of all the masters of political science; James Watt, who, perhaps, did more than any single man has done, since the New Atlantis of Bacon was written, to accomplish that glorious prophecy. We now speak the language of humility when we say that the University of Glasgow need not fear a comparison with the University of Bologna.

A fifth secular period is about to commence. There is no lack of alarmists who will tell you that it is about to commence under evil auspices. But from me you must expect no such gloomy prognostications. I have heard them too long and too constantly to be scared

by them. Ever since I began to make observations on the state of my country, I have been seeing nothing but growth, and hearing of nothing but decay. The more I contemplate our noble institutions, the more convinced I am that they are sound at heart, that they have nothing of age but its dignity, and that their strength is still the strength of youth. The hurricane, which has recently overthrown so much that was great and that seemed durable, has only proved their solidity. They still stand, august and immovable, while dynasties and churches are lying in heaps of ruin all around us. I see no reason to doubt that, by the blessing of God on a wise and temperate policy, on a policy of which the principle is to preserve what is good by reforming in time what is evil, our civil institutions may be preserved unimpaired to a late posterity, and that, under the shade of our civil institutions, our academical institutions may long continue to flourish.

I trust, therefore, that, when a hundred years more have run out, this ancient College will still continue to deserve well of our country and of mankind. I trust that the installation of 1949 will be attended by a still greater assembly of students than I have the happiness now to see before me. That assemblage, indeed, may not meet in the place where we have met. These venerable halls may have disappeared. My successor may speak to your successors in a more stately edifice, in an edifice which, even among the magnificent buildings of the future Glasgow, will still be admired as a fine specimen of the architecture which flourished in the days of the good Queen Victoria. But, though the site and the walls may be new, the spirit of the institution will, I hope, be still the same. My succes-

sor will, I hope, be able to boast that the fifth century of the University has even been more glorious than the fourth. He will be able to vindicate that boast by citing a long list of eminent men, great masters of experimental science, of ancient learning, of our native eloquence, ornaments of the senate, the pulpit, and the bar. He will, I hope, mention with high honour some of my young friends who now hear me; and he will, I also hope, be able to add that their talents and learning were not wasted on selfish or ignoble objects, but were employed to promote the physical and moral good of their species, to extend the empire of man over the material world, to defend the cause of civil and religious liberty against tyrants and bigots, and to defend the cause of virtue and order against the enemies of all divine and human laws. I have now given utterance to a part, and to a part only, of the recollections and anticipations of which, on this solemn occasion, my mind is full. I again thank you for the honour which you have bestowed on me; and I assure you that, while I live, I shall never cease to take a deep interest in the welfare and fame of the body with which, by your kindness, I have this day become connected.

A SPEECH

DELIVERED AT EDINBURGH ON THE 2D OF NOVEMBER, 1852.

At the General Election of 1852 the votes for the City of Edinburgh stood thus:

Mr. Macaulay	1872
Mr. Cowan	1754
The Lord Provost	1559
Mr. Bruce	1066
Mr. Campbell	686

On the second of November the Electors assembled in the Music Hall to meet the representative whom they had, without any solicitation on his part, placed at the head of the poll. On this occasion the following Speech was delivered: —

Gentlemen, I thank you from my heart for this kind reception. In truth, it has almost overcome me. Your good opinion and your good will were always very valuable to me, far more valuable than any vulgar object of ambition, far more valuable than any office, however lucrative or dignified. In truth, no office, however lucrative or dignified, would have tempted me to do what I have done at your summons, to leave again the happiest and most tranquil of all retreats for the bustle of political life. But the honour which you have conferred upon me, an honour of which the greatest men might well be proud, an honour which it is in the power only of a free people to bestow, has laid on me such an obligation that I should have thought it ingratitude, I should have thought it

pusillanimity, not to make at least an effort to serve you.

And here, Gentlemen, we meet again in kindness after a long separation. It is more than five years since I last stood in this very place; a large part of human life. There are few of us on whom those five years have not set their mark, few circles from which those five years have not taken away what can never be replaced. Even in this multitude of friendly faces I look in vain for some which would on this day have been lighted up with joy and kindness. I miss one venerable man, who, before I was born, in evil times, in times of oppression and of corruption, had adhered, with almost solitary fidelity, to the cause of freedom, and whom I knew in advanced age, but still in the full vigour of mind and body, enjoying the respect and gratitude of his fellow citizens. I should, indeed, be most ungrateful if I could, on this day, forget Sir James Craig, his public spirit, his judicious counsel, his fatherly kindness to myself. And Jeffrey — with what an effusion of generous affection he would, on this day, have welcomed me back to Edinburgh! He too is gone; but the remembrance of him is one of the many ties which bind me to the city once dear to his heart, and still inseparably associated with his fame.

But, Gentlemen, it is not only here that, on entering again, at your call, a path of life which I believed that I had quitted forever, I shall be painfully reminded of the changes which the last five years have produced. In Parliament I shall look in vain for virtues which I loved, and for abilities which I admired. Often in debate, and never more than when we discuss those questions of colonial policy which are every day acquiring a new interest, I shall remember with regret how

much eloquence and wit, how much acuteness and knowledge, how many engaging qualities, how many fair hopes, are buried in the grave of poor Charles Buller. There were other men, men with whom I had no political connection and little personal connection, men to whom I was, during a great part of my public life, honestly opposed, but of whom I cannot now think without grieving that their wisdom, their experience, and the weight of their great names can never more, in the hour of need, bring help to the nation or to the throne. Such were those two eminent men whom I left at the height, one of civil, the other of military fame; one the oracle of the House of Commons, the other the oracle of the House of Lords. There were parts of their long public life which they would themselves, I am persuaded, on a calm retrospect, have allowed to be justly censurable. But it is impossible to deny that each in his own department saved the State; that one brought to a triumphant close the most formidable conflict in which this country was ever engaged with a foreign enemy; and that the other, at an immense sacrifice of personal feeling and personal ambition, freed us from an odious monopoly, which could not have existed many years longer without producing fearful intestine discords. I regret them both: but I peculiarly regret him who is associated in my mind with the place to which you have sent me. I shall hardly know the House of Commons without Sir Robert Peel. On the first evening on which I took my seat in that House, more than two and twenty years ago, he held the highest position among the Ministers of the Crown who sate there. During all the subsequent years of my parliamentary service I scarcely remember one important discussion in which he did not

bear a part with conspicuous ability. His figure is now before me: all the tones of his voice are in my ears; and the pain with which I think that I shall never hear them again would be embittered by the recollection of some sharp encounters which took place between us, were it not that at last there was an entire and cordial reconciliation, and that, only a very few days before his death, I had the pleasure of receiving from him marks of kindness and esteem of which I shall always cherish the recollection.

But, Gentlemen, it is not only by those changes which the natural law of mortality produces, it is not only by the successive disappearances of eminent men that the face of the world has been changed during the five years which have elapsed since we met here last. Never since the origin of our race have there been five years more fertile of great events, five years which have left behind them a more awful lesson. We have lived many lives in that time. The revolutions of ages have been compressed into a few months. France, Germany, Hungary, Italy, — what a history has theirs been! When we met here last, there was in all of those countries an outward show of tranquillity; and there were few, even of the wisest among us, who imagined what wild passions, what wild theories, were fermenting under that peaceful exterior. An obstinate resistance to a reasonable reform, a resistance prolonged but for one day beyond the time, gave the signal for the explosion; and in an instant, from the borders of Russia to the Atlantic Ocean, everything was confusion and terror. The streets of the greatest capitals of Europe were piled up with barricades, and were streaming with civil blood. The house of Orleans fled from France: the Pope fled from Rome: the Emperor of Austria was

not safe at Vienna. There were popular institutions in Florence; popular institutions at Naples. One democratic convention sat at Berlin; another democratic convention at Frankfort. You remember, I am sure, but too well, how some of the wisest and most honest friends of liberty, though inclined to look with great indulgence on the excesses inseparable from revolutions, began first to doubt and then to despair of the prospects of mankind. You remember how all sorts of animosity, national, religious, and social, broke forth together. You remember how with the hatred of discontented subjects to their governments was mingled the hatred of race to race and of class to class. For myself, I stood aghast; and though naturally of a sanguine disposition, I did for one moment doubt whether the progress of society was not about to be arrested, nay, to be suddenly and violently turned back; whether we were not doomed to pass in one generation from the civilisation of the nineteenth century to the barbarism of the fifth. I remembered that Adam Smith and Gibbon had told us that the dark ages were gone, never more to return, that modern Europe was in no danger of the fate which had befallen the Roman empire. That flood, they said, would no more return to cover the earth: and they seemed to reason justly: for they compared the immense strength of the enlightened part of the world with the weakness of the part which remained savage; and they asked whence were to come the Huns and the Vandals who should again destroy civilisation? It had not occurred to them that civilisation itself might engender the barbarians who should destroy it. It had not occurred to them that in the very heart of great capitals, in the neighbourhood of splendid palaces, and churches, and theatres, and

libraries, and museums, vice and ignorance might produce a race of Huns fiercer than those who marched under Attila, and of Vandals more bent on destruction than those who followed Genseric. Such was the danger. It passed by. Civilisation was saved; but at what a price! The tide of popular feeling turned and ebbed almost as fast as it had risen. Imprudent and obstinate opposition to reasonable demands had brought on anarchy; and as soon as men had a near view of anarchy they fled in terror to crouch at the feet of despotism. To the dominion of mobs armed with pikes succeeded the sterner and more lasting dominion of disciplined armies. The Papacy rose from its debasement; rose more intolerant and insolent than before; intolerant and insolent as in the days of Hildebrand; intolerant and insolent to a degree which dismayed and disappointed those who had fondly cherished the hope that the spirit which had animated the Crusaders and the Inquisitors had been mitigated by the lapse of years and by the progress of knowledge. Through all that vast region, where little more than four years ago we looked in vain for any stable authority, we now look in vain for any trace of constitutional freedom. And we, Gentlemen, in the mean time, have been exempt from both those calamities which have wrought ruin all around us. The madness of 1848 did not subvert the British throne. The reaction which followed has not destroyed British liberty.

And why is this? Why has our country, with all the ten plagues raging around her, been a land of Goshen? Everywhere else was the thunder, and the fire running along the ground, — a very grievous storm, — a storm such as there was none like it since man was on the earth; yet everything tranquil here; and then

again thick night, darkness that might be felt; and yet light in all our dwellings. We owe this singular happiness, under the blessing of God, to a wise and noble constitution, the work of many generations of great men. Let us profit by experience; and let us be thankful that we profit by the experience of others, and not by our own. Let us prize our constitution: let us purify it: let us amend it; but let us not destroy it. Let us shun extremes, not only because each extreme is in itself a positive evil, but also because each extreme necessarily engenders its opposite. If we love civil and religious freedom, let us in the day of danger uphold law and order. If we are zealous for law and order, let us prize, as the best safeguard of law and order, civil and religious freedom.

Yes, Gentlemen; if I am asked why we are free with servitude all around us, why our Habeas Corpus Act has not been suspended, why our press is still subject to no censor, why we still have the liberty of association, why our representative institutions still abide in all their strength, I answer, It is because in the year of revolutions we stood firmly by our Government in its peril; and, if I am asked why we stood by our Government in its peril, when men all around us were engaged in pulling Governments down, I answer, It was because we knew that though our Government was not a perfect Government, it was a good Government, that its faults admitted of peaceable and legal remedies, that it had never inflexibly opposed just demands, that we had obtained concessions of inestimable value, not by beating the drum, not by ringing the tocsin, not by tearing up the pavement, not by running to the gunsmiths' shops to search for arms, but by the mere force of reason and public opinion. And, Gen-

tlemen, preëminent among those pacific victories of reason and public opinion, the recollection of which chiefly, I believe, carried us safely through the year of revolutions, and through the year of counter-revolutions, I would place two great reforms, inseparably associated, one with the memory of an illustrious man, who is now beyond the reach of envy, the other with the name of another illustrious man, who is still, and, I hope, long will be, a living mark for detraction. I speak of the great commercial reform of 1846, the work of Sir Robert Peel, and of the great parliamentary reform of 1832, the work of many eminent statesmen, among whom none was more conspicuous than Lord John Russell. I particularly call your attention to those two great reforms, because it will, in my opinion, be the especial duty of that House of Commons in which, by your distinguished favour, I have a seat, to defend the commercial reform of Sir Robert Peel, and to perfect and extend the parliamentary reform of Lord John Russell.

With respect to the commercial reform, though I say it will be a sacred duty to defend it, I do not apprehend that we shall find the task very difficult. Indeed, I doubt whether we have any reason to apprehend a direct attack upon the system now established. From the expressions used during the last session, and during the late elections, by the Ministers and their adherents, I should, I confess, find it utterly impossible to draw any inference whatever. They have contradicted each other; and they have contradicted themselves. Nothing would be easier than to select from their speeches passages which would prove them to be Freetraders, and passages which would prove them to be Protectionists. But, in truth, the only inference which can

properly be drawn from a speech of one of these gentlemen in favour of Free Trade is, that, when he spoke, he was standing for a town; and the only inference which can be drawn from the speech of another in favour of Protection, is, that when he spoke, he was standing for a county. I quitted London in the heat of the elections. I left behind me a Tory candidate for Westminster and a Tory candidate for Middlesex, loudly proclaiming themselves Derbyites and Freetraders. All along my journey through Berkshire and Wiltshire I heard nothing but the cry of Derby and Protection; but when I got to Bristol, the cry was Derby and Free Trade again. On one side of the Wash, Lord Stanley, the Under-Secretary of State for the Foreign Department, a young nobleman of great promise, a young nobleman who appears to me to inherit a large portion of his father's ability and energy, held language which was universally understood to indicate that the Government had altogether abandoned all thought of Protection. Lord Stanley was addressing the inhabitants of a town. Meanwhile, on the other side of the Wash, the Chancellor of the Duchy of Lancaster was haranguing the farmers of Lincolnshire; and, when somebody took it upon him to ask, "What will you do, Mr. Christopher, if Lord Derby abandons Protection?" the Chancellor of the Duchy refused to answer a question so monstrous, so insulting to Lord Derby. "I will stand by Lord Derby," he said, "because I know that Lord Derby will stand by Protection." Well, these opposite declarations of two eminent persons, both likely to know the mind of Lord Derby on the subject, go forth, and are taken up by less distinguished adherents of the party. The Tory candidate for Leicestershire says,

"I put faith in Mr. Christopher: while you see Mr. Christopher in the Government, you may be assured that agriculture will be protected." But, in East Surrey, which is really a suburb of London, I find the Tory candidate saying, "Never mind Mr. Christopher. I trust to Lord Stanley. What should Mr. Christopher know on the subject? He is not in the Cabinet: he can tell you nothing about it." Nay, these tactics were carried so far that Tories, who had formerly been for Free Trade, turned Protectionists if they stood for counties; and Tories, who had always been furious Protectionists, declared for Free Trade, without scruple or shame, if they stood for large towns. Take for example Lord Maidstone. He was once one of the most vehement Protectionists in England, and put forth a small volume, which, as I am an elector of Westminster, and as he was a candidate for Westminster, I thought it my duty to buy, in order to understand his opinions. It is entitled Free Trade Hexameters. Of the poetical merits of Lord Maidstone's hexameters I shall not presume to give an opinion. You may all form an opinion for yourselves by ordering copies. They may easily be procured: for I was assured, when I bought mine in Bond Street, that the supply on hand was still considerable. But of the political merits of Lord Maidstone's hexameters I can speak with confidence; and it is impossible to conceive a fiercer attack, according to the measure of the power of the assailant, than that which his lordship made on Sir Robert Peel's policy. On the other hand, Sir Fitzroy Kelly, who is now Solicitor General, and who was Solicitor General under Sir Robert Peel, voted steadily with Sir Robert Peel, doubtless from a regard to the public interest, which would have suf-

fered greatly by the retirement of so able a lawyer from the service of the Crown. Sir Fitzroy did not think it necessary to lay down his office even when Sir Robert Peel brought in the bill which established a free trade in corn. But unfortunately Lord Maidstone becomes a candidate for the City of Westminster, and Sir Fitzroy Kelly stands for an agricultural county. Instantly, therefore, Lord Maidstone forgets his verses, and Sir Fitzroy Kelly forgets his votes. Lord Maidstone declares himself a convert to the opinions of Sir Robert Peel; and Sir Robert Peel's own Solicitor General lifts up his head intrepidly, and makes a speech, apparently composed out of Lord Maidstone's hexameters.

It is, therefore, Gentlemen, utterly impossible for me to pretend to infer, from the language held by the members of the Government and their adherents, what course they will take on the subject of Protection. Nevertheless I confidently say that the system established by Sir Robert Peel is perfectly safe. The law which repealed the Corn Laws stands now on a much firmer foundation than when it was first passed. We are stronger than ever in reason; and we are stronger than ever in numbers. We are stronger than ever in reason, because what was only prophecy is now history. No person can now question the salutary effect which the repeal of the Corn Laws has had on our trade and industry. We are stronger than ever in numbers. You, I am sure, recollect the time when a formidable opposition to the repeal of the Corn Laws was made by a class which was most deeply interested in that repeal; I mean by the labouring classes. You recollect that, in many large towns, ten years ago, the friends of Free Trade could not venture to call meetings for the pur-

pose of petitioning against the Corn Laws, for fear of being interrupted by a crowd of working people, who had been taught by a certain class of demagogues to say that the question was one in which working people had no interest; that it was purely a capitalist's question; that, if the poor man got a large loaf instead of a small one, he would get from the capitalist only a sixpence instead of a shilling. I never had the slightest faith in those doctrines. Experience even then seemed to me completely to confute them. I compared place with place; and I found that, though bread was dearer in England than in Ohio, wages were higher in Ohio than in England. I compared time with time; and I saw that those times when bread was cheapest in England, within my own memory, were also the times in which the condition of the labouring classes was the happiest. But now the experiment has been tried in a manner which admits of no dispute. I should be glad to know, if there were now an attempt made to impose a tax on corn, what demagogue would be able to bring a crowd of working men to hold up their hands in favour of such a tax. Thus strong, Gentlemen, in reason, and thus strong in numbers, we need, I believe, apprehend no direct attack on the principles of Free Trade. It will, however, be one of the first duties of your representatives to be vigilant that no indirect attack shall be made on these principles; and to take care that in our financial arrangements no undue favour shall be shown to any class.

With regard to the other question which I have mentioned, the question of Parliamentary Reform, I think that the time is at hand when that question will require the gravest consideration, when it will be necessary to reconsider the Reform Act of 1832, and to

amend it temperately and cautiously, but in a large and liberal spirit. I confess that, in my opinion, this revision cannot be made with advantage, except by the Ministers of the Crown. I greatly doubt whether it will be found possible to carry through any plan of improvement if we have not the Government heartily with us; and I must say that from the present Administration I can, as to that matter, expect nothing good. What precisely I am to expect from them I do not know, whether the most obstinate opposition to every change, or the most insanely violent change. If I look to their conduct, I find the gravest reasons for apprehending that they may at one time resist the most just demands, and at another time, from the merest caprice, propose the wildest innovations. And I will tell you why I entertain this opinion. I am sorry that, in doing so, I must mention the name of a gentleman for whom, personally, I have the highest respect; I mean Mr. Walpole, the Secretary of State for the Home Department. My own acquaintance with him is slight: but I know him well by character; and I believe him to be an honourable, an excellent, an able man. No man is more esteemed in private life: but of his public conduct I must claim the right to speak with freedom; and I do so with less scruple because he has himself set me an example of that freedom, and because I am really now standing on the defensive. Mr. Walpole lately made a speech to the electors of Midhurst; and in that speech he spoke personally of Lord John Russell as one honourable man should speak of another, and as, I am sure, I wish always to speak of Mr. Walpole. But in Lord John's public conduct Mr. Walpole found many faults. Chief among those faults was this, that his lordship had reopened the question

of reform. Mr. Walpole declared himself to be opposed on principle to organic change. He justly said that if, unfortunately, organic change should be necessary, whatever was done ought to be done with much deliberation and with caution almost timorous: and he charged Lord John with having neglected these plain rules of prudence. I was perfectly thunderstruck when I read the speech: for I could not but recollect that the most violent and democratic change that ever was proposed within the memory of the oldest man had been proposed but a few weeks before by this same Mr. Walpole, as the organ of the present Government. Do you remember the history of the Militia Bill? In general, when a great change in our institutions is to be proposed from the Treasury Bench, the Minister announces his intention some weeks before. There is a great attendance: there is the most painful anxiety to know what he is going to recommend. I well remember — for I was present — with what breathless suspense six hundred persons waited on the first of March, 1831, to hear Lord John Russell explain the principles of his Reform Bill. But what was his Reform Bill to the Reform Bill of the Derby Administration? At the end of a night, in the coolest way possible, without the smallest notice, Mr. Walpole proposed to add to the tail of the Militia Bill a clause to the effect, that every man who had served in the Militia for two years should have a vote for the county. What is the number of those voters who were to be entitled to vote in this way for counties? The militia of England is to consist of eighty thousand men; and the term of service is to be five years. In ten years the number will be one hundred and sixty thousand; in twenty years, three hundred and twenty thousand;

and in twenty-five years, four hundred thousand. Some of these new electors will, of course, die off in twenty-five years, though the lives are picked lives, remarkably good lives. What the mortality is likely to be I do not accurately know; but any actuary will easily calculate it for you. I should say, in round numbers, that you will have, when the system has been in operation for a generation, an addition of about three hundred thousand to the county constituent bodies; that is to say, six thousand voters on the average will be added to every county in England and Wales. That is surely an immense addition. And what is the qualification? Why, the first qualification is youth. These electors are not to be above a certain age; but the nearer you can get them to eighteen the better. The second qualification is poverty. The elector is to be a person to whom a shilling a-day is an object. The third qualification is ignorance; for I venture to say that, if you take the trouble to observe the appearance of those young fellows who follow the recruiting sergeant in the streets, you will at once say that, among our labouring classes, they are not the most educated, they are not the most intelligent. That they are brave, stout lads, I fully believe. Lord Hardinge tells me that he never saw a finer set of young men; and I have not the slightest doubt that, if necessary, after a few weeks' training, they will be found standing up for our firesides against the best disciplined soldiers that the Continent can produce. But these are not the qualifications which fit men to choose legislators. A young man who goes from the ploughtail into the army is generally rather thoughtless and disposed to idleness. Oh! but there is another qualification which I had forgotten: the voter must be five feet two. There is a

qualification for you! Only think of measuring a man for the franchise! And this is the work of a Conservative Government, this plan which would swamp all the counties in England with electors who possess the Derby-Walpole qualifications; that is to say, youth, poverty, ignorance, a roving disposition, and five feet two. Why, what right have people who have proposed such a change as this to talk about — I do not say Lord John Russell's imprudence — but the imprudence of Ernest Jones or of any other Chartist? The Chartists, to do them justice, would give the franchise to wealth as well as to poverty, to knowledge as well as to ignorance, to mature age as well as to youth. But to make a qualification compounded of disqualifications is a feat of which the whole glory belongs to our Conservative rulers. This astounding proposition was made, I believe, in a very thin House: but the next day the House was full enough, everybody having come down to know what was going to happen. One asked, why not this? and another, why not that? Are all the regular troops to have the franchise? all the policemen? all the sailors? for, if you give the franchise to ploughboys of twenty-one, what class of honest Englishmen and Scotchmen can you with decency exclude? But up gets the Home Secretary, and informs the House that the plan had not been sufficiently considered, that some of his colleagues were not satisfied, and that he would not press his proposition. Now, if it had happened to me to propose such a reform at one sitting of the House, and at the next sitting to withdraw it, because it had not been well considered, I do think that, to the end of my life, I never should have talked about the exceeding imprudence of reopening the question of reform; I should never have ventured to

read any other man a lecture about the caution with which all plans of organic change ought to be framed. I repeat that, if I am to judge from the language of the present Ministers, taken in connection with this solitary instance of their legislative skill in the way of reform, I am utterly at a loss what to expect. On the whole, what I do expect is that they will offer a pertinacious, vehement, provoking opposition to safe and reasonable change, and that then, in some moment of fear or caprice, they will bring in, and fling on the table, in a fit of desperation or levity, some plan which will loosen the very foundations of society.

For my own part, I think that the question of Parliamentary Reform is one which must soon be taken up; but it ought to be taken up by the Government; and I hope, before long, to see in office a Ministry which will take it up in earnest. I dare say that you will not suspect me of saying so from any interested feeling. In no case whatever shall I again be a member of any Ministry. During what may remain of my public life, I shall be the servant of none but you. I have nothing to ask of any government, except that protection which every government owes to a faithful and loyal subject of the Queen. But I do hope to see in office before long a Ministry which will treat this great question as it should be treated. It will be the duty of that Ministry to revise the distribution of power. It will be the duty of that Ministry to consider whether small constituent bodies, notoriously corrupt, and proved to be corrupt, such, for example, as Harwich, ought to retain the power of sending members to Parliament. It will be the duty of such a Ministry to consider whether small constituent bodies, even less notoriously corrupt, ought to have, in the councils of the empire, a share

as great as that of the West Riding of York, and twice as great as that of the county of Perth. It will be the duty of such a Ministry to consider whether it may not be possible, without the smallest danger to peace, law, and order, to extend the elective franchise to classes of the community which do not now possess it. As to universal suffrage, on that subject you already know my opinions; and I now come before you with those opinions strengthened by everything which, since I last professed them, has passed in Europe. We now know, by the clearest of all proofs, that universal suffrage, even united with secret voting, is no security against the establishment of arbitrary power. But, gentlemen, I do look forward, and at no very remote period, to an extension of the franchise, such as I once thought unsafe. I believe that such an extension will, by the course of events, be brought about in the very best and happiest way. Perhaps I may be sanguine: but I think that good times are coming for the labouring classes of this country. I do not entertain that hope because I expect that Fourierism, or Saint Simonianism, or Socialism, or any of those other "isms" for which the plain English word is "robbery," will prevail. I know that such schemes only aggravate the misery which they pretend to relieve. I know that it is possible, by legislation, to make the rich poor, but that it is utterly impossible to make the poor rich. But I believe that the progress of experimental science, the free intercourse of nation with nation, the unrestricted influx of commodities from countries where they are cheap, and the unrestricted efflux of labour towards countries where it is dear, will soon produce, nay, I believe that they are beginning to produce, a great and most blessed social revolution. I

need not tell you, gentlemen, that in those colonies which have been planted by our race, — and, when I speak of our colonies, I speak as well of those which have separated from us as of those which still remain united to us, — I need not tell you that in our colonies the condition of the labouring man has long been far more prosperous than in any part of the Old World. And why is this? Some people tell you that the inhabitants of Pennsylvania and New England are better off than the inhabitants of the Old World, because the United States have a republican form of government. But we know that the inhabitants of Pennsylvania and New England were more prosperous than the inhabitants of the Old World when Pennsylvania and New England were as loyal as any part of the dominions of George the First, George the Second, and George the Third; and we know that in Van Diemen's Land, in New Zealand, in Australasia, in New Brunswick, in Canada, the subjects of Her Majesty are as prosperous as they could be under the government of a President. The real cause is that, in these new countries where there is a boundless extent of fertile land, nothing is easier than for the labourer to pass from the place which is overstocked with labour to the place which is understocked; and that thus both he who moves and he who stays always have enough. This it is which keeps up the prosperity of the Atlantic States of the Union. They pour their population back to the Ohio, across the Ohio to the Mississippi, and beyond the Mississippi to the Rocky Mountains. Everywhere the desert is receding before the advancing flood of human life and civilisation; and, in the meantime, those who are left behind enjoy abundance, and never endure such privations as in old

countries too often befall the labouring classes. And why has not the condition of our labourers been equally fortunate? Simply, as I believe, on account of the great distance which separates our country from the new and unoccupied part of the world, and on account of the expense of traversing that distance. Science, however, has abridged, and is abridging, that distance: science has diminished, and is diminishing, that expense. Already New Zealand is, for all practical purposes, nearer to us than New England was to the Puritans who fled thither from the tyranny of Laud. Already the ports of North America, Halifax, Boston, and New York, are nearer to us than, within the memory of persons now living, the Island of Skye and the county of Donegal were to London. Already emigration is beginning to produce the same effect here which it has produced on the Atlantic States of the Union. And do not imagine that our countryman who goes abroad is altogether lost to us. Even if he goes from under the dominion of the British Queen and the protection of the British flag, he will still, under the benignant system of free trade, continue to be bound to us by close ties. If he ceases to be a neighbour, he is still a benefactor and a customer. Go where he may, if you will but maintain that system inviolate, it is for us that he is turning the forests into cornfields on the banks of the Mississippi; it is for us that he is tending his sheep and preparing his fleeces in the heart of Australasia; and in the meantime it is from us that he receives those commodities which are produced with most advantage in old societies, where great masses of capital have been accumulated. His candlesticks and his pots and his pans come from Birmingham; his knives from Sheffield; the light cotton

jacket which he wears in summer from Manchester; the good cloth coat which he wears in winter from Leeds; and in return he sends us back, from what was lately a wilderness, the good flour out of which is made the large loaf which the British labourer divides among his children. I believe that it is in these changes that we shall see the best solution of the question of the franchise. We shall make our institutions more democratic than they are, not by lowering the franchise to the level of the great mass of the community, but by raising, in a time which will be very short when compared with the existence of a nation, the great mass up to the level of the franchise.

I feel that I must stop. I had meant to advert to some other subjects. I had meant to say something about the ballot, to which, as you know, I have always been favourable; something about triennial parliaments, to which, as you know, I have always been honestly opposed; something about your University tests; something about the cry for religious equality which has lately been raised in Ireland; but I feel that I cannot well proceed. I have only strength to thank you again, from the very bottom of my heart, for the great honour which you have done me in choosing me, without solicitation, to represent you in Parliament. I am proud of our connection; and I shall try to act in such a manner that you may not be ashamed of it.

A SPEECH

DELIVERED IN THE HOUSE OF COMMONS ON THE 1ST OF JUNE, 1853.

On the first of June, 1853, Lord Hotham, Member for Kent, moved the third reading of a bill of which the chief object was to make the Master of the Rolls incapable of sitting in the House of Commons. Mr. Henry Drummond, Member for Surrey, moved that the bill should be read a third time that day six months. In support of Mr. Drummond's amendment the following Speech was made.

The amendment was carried by 224 votes to 123.

I CANNOT, Sir, suffer the House to proceed to a division without expressing the very strong opinion which I have formed on this subject. I shall give my vote, with all my heart and soul, for the amendment moved by my honourable friend, the Member for Surrey. I never gave a vote in my life with a more entire confidence that I was in the right; and I cannot but think it discreditable to us that a bill for which there is so little to be said, and against which there is so much to be said, should have been permitted to pass through so many stages without a division.

On what grounds, Sir, does the noble lord, the Member for Kent, ask us to make this change in the law? The only ground, surely, on which a Conservative legislator ought ever to propose a change in the law is this, that the law, as it stands, has produced some evil? Is it then pretended that the law, as it stands, has produced any evil? The noble lord himself tells you that it has produced no evil whatever.

Nor can it be said that the experiment has not been fairly tried. This House and the office of Master of the Rolls began to exist, probably in the same generation, certainly in the same century. During six hundred years this House has been open to Masters of the Rolls. Many Masters of the Rolls have sate here, and have taken part, with great ability and authority, in our deliberations. To go no further back than the accession of the House of Hanover, Jekyll was a member of this House, and Strange, and Kenyon, and Pepper Arden, and Sir William Grant, and Sir John Copley, and Sir Charles Pepys, and finally Sir John Romilly. It is not even pretended that any one of these eminent persons was ever, on any single occasion, found to be the worse member of this House for being Master of the Rolls, or the worse Master of the Rolls for being a member of this House. And if so, is it, I ask, the part of a wise statesman, is it, I ask still more emphatically, the part of a Conservative statesman, to alter a system which has lasted six centuries, and which has never once, during all those centuries, produced any but good effects, merely because it is not in harmony with an abstract principle?

And what is the abstract principle for the sake of which we are asked to innovate in reckless defiance of all the teaching of experience? It is this: that political functions ought to be kept distinct from judicial functions. So sacred, it seems, is this principle, that the union of the political and judicial characters ought not to be suffered to continue even in a case in which that union has lasted through many ages without producing the smallest practical inconvenience. "Nothing is so hateful," I quote the words of the noble lord who brought in this bill, "nothing is so hateful as a political judge."

Now, Sir, if I assent to the principle laid down by the noble lord, I must pronounce his bill the most imbecile, the most pitiful, attempt at reform that ever was made. The noble lord is a homœopathist in state medicine. His remedies are administered in infinitesimal doses. If he will, for a moment, consider how our tribunals are constituted, and how our parliament is constituted, he will perceive that the judicial and political character are, through all grades, everywhere combined, everywhere interwoven, and that therefore the evil which he proposes to remove vanishes, as the mathematicians say, when compared with the immense mass of evil which he leaves behind.

It has been asked, and very sensibly asked, why, if you exclude the Master of the Rolls from the House, you should not also exclude the Recorder of the City of London. I should be very sorry to see the Recorder of the City of London excluded. But I must say that the reasons for excluding him are ten times as strong as the reasons for excluding the Master of the Rolls. For it is well known that political cases of the highest importance have been tried by Recorders of the City of London. But why not exclude all Recorders, and all Chairmen of Quarter Sessions? I venture to say that there are far stronger reasons for excluding a Chairman of Quarter Sessions than for excluding a Master of the Rolls. I long ago attended, during two or three years, the Quarter Sessions of a great county. There I constantly saw in the chair an eminent member of this House. An excellent criminal judge he was. Had he been a veteran lawyer, he could hardly have tried causes more satisfactorily or more expeditiously. But he was a keen politician: he had made a motion which had turned out a Gov-

ernment; and when he died he was a Cabinet Minister. Yet this gentleman, the head of the Blue interest, as it was called, in his county, might have had to try men of the Orange party for rioting at a contested election. He voted for the corn laws; and he might have had to try men for breaches of the peace which had originated in the discontent caused by the corn laws. He was, as I well remember, hooted, and, I rather think, pelted too, by the mob of London for his conduct towards Queen Caroline; and, when he went down to his county, he might have had to sit in judgment on people for breaking windows which had not been illuminated in honour of Her Majesty's victory. This is not a solitary instance. There are, I dare say, in this House, fifty Chairmen of Quarter Sessions. And this is an union of judicial and political functions against which there is really much to be said. For it is important, not only that the administration of justice should be pure, but that it should be unsuspected. Now I am willing to believe that the administration of justice by the unpaid magistrates in political cases is pure: but unsuspected it certainly is not. It is notorious that, in times of political excitement, the cry of the whole democratic press always is that a poor man, who has been driven by distress to outrage, has far harder measure at the Quarter Sessions than at the Assizes. So loud was this cry in 1819 that Mr. Canning, in one of his most eloquent speeches, pronounced it the most alarming of all the signs of the times. See then how extravagantly, how ludicrously inconsistent your legislation is. You lay down the principle that the union of political functions and judicial functions is a hateful abuse. That abuse you determine to remove. You accordingly leave in this House a crowd of judges

who, in troubled times, have to try persons charged with political offences; of judges who have often been accused, truly or falsely, of carrying to the judgment seat their political sympathies and antipathies: and you shut out of the House a single judge whose duties are of such a nature that it has never once, since the time of Edward the First, been even suspected that he or any of his predecessors has, in the administration of justice, favoured a political ally, or wronged a political opponent.

But even if I were to admit, what I altogether deny, that there is something in the functions of the Master of the Rolls which makes it peculiarly desirable that he should not take any part in politics, I should still vote against this bill, as most inconsistent and inefficient. If you think that he ought to be excluded from political assemblies, why do not you exclude him? You do no such thing. You exclude him from the House of Commons; but you leave the House of Lords open to him. Is not the House of Lords a political assembly? And is it not certain that, during several generations, judges have generally had a great ascendancy in the House of Lords? A hundred years ago a great judge, Lord Hardwicke, possessed an immense influence there. He bequeathed his power to another great judge, Lord Mansfield. When age had impaired the vigour of Lord Mansfield, the authority which he had, during many years, enjoyed, passed to a third judge, Lord Thurlow. Everybody knows what a dominion that eminent judge, Lord Eldon, exercised over the peers, what a share he took in making and unmaking ministries, with what idolatrous veneration he was regarded by one great party in the State, with what dread and aversion he was regarded by the other.

When the long reign of Lord Eldon had terminated, other judges, Whig and Tory, appeared at the head of contending factions. Some of us can well remember the first ten days of October, 1831. Who, indeed, that lived through those days can ever forget them? It was the most exciting, the most alarming political conjuncture of my time. On the morning of the eighth of October the Reform Bill, after a discussion which had lasted through many nights, was rejected by the Lords. God forbid that I should again see such a crisis! I can never hope again to hear such a debate. It was indeed a splendid display of various talents and acquirements. There are, I dare say, some here who, like myself, watched through the last night of that conflict till the late autumnal dawn, sometimes walking up and down the long gallery, sometimes squeezing ourselves in behind the throne, or below the bar, to catch the eloquence of the great orators who, on that great occasion, surpassed themselves. There I saw, in the foremost ranks, confronting each other, two judges: on one side Lord Brougham, Chancellor of the realm; on the other Lord Lyndhurst, Chief Baron of the Exchequer. How eagerly we hung on their words! How eagerly those words were read before noon by hundreds of thousands in the capital, and, within forty-eight hours, by millions in every part of the kingdom! With what a burst of popular fury the decision of the House was received by the nation! The ruins of Nottingham Castle, the ruins of whole streets and squares at Bristol, proved but too well to what a point the public feeling had been wound up. If it be true that nothing is so hateful to the noble lord, the Member for Kent, as a judge who takes part in political contentions, why

does he not bring in a bill to prevent judges from entering those lists in which Lord Brougham and Lord Lyndhurst then encountered each other? But no: the noble lord is perfectly willing to leave those lists open to the Master of the Rolls. The noble lord's objection is not to the union of the judicial character and the political character. He is quite willing that anywhere but here judges should be politicians. The Master of the Rolls may be the soul of a great party, the head of a great party, the favourite tribune of a stormy democracy, the chief spokesman of a haughty aristocracy. He may do all that declamation and sophistry can do to inflame the passions or mislead the judgment of a senate. But it must not be in this room. He must go a hundred and fifty yards hence. He must sit on a red bench, and not on a green one. He must say, "My Lords," and not "Mr. Speaker." He must say, "Content," and not "Aye." And then he may, without at all shocking the noble lord, be the most stirring politician in the kingdom.

But I am understating my case. I am greatly understating it. For, Sir, this union of the judicial character and the political character, in Members of the other House of Parliament, is not a merely accidental union. Not only may judges be made peers; but all the peers are necessarily judges. Surely when the noble lord told us that the union of political functions and of judicial functions was the most hateful of all things, he must have forgotten that, by the fundamental laws of the realm, a political assembly is the supreme court of appeal, the court which finally confirms or annuls the judgments of the courts, both of common law and of equity, at Westminster, of the courts of Scotland, of the courts of Ireland, of this

very Master of the Rolls about whom we are debating. Surely, if the noble lord's principle be a sound one, it is not with the Master of the Rolls, but with the House of Peers, that we ought to begin. For, beyond all dispute, it is more important that the court above should be constituted on sound principles than that the court below should be so constituted. If the Master of the Rolls goes wrong, the House of Peers may correct his errors. But who is to correct the errors of the House of Peers? All these considerations the noble lord overlooks. He is quite willing that the peers shall sit in the morning as judges, shall determine questions affecting the property, the liberty, the character of the Queen's subjects, shall determine those questions in the last resort, shall overrule the decisions of all the other tribunals in the country; and that then, in the afternoon, these same noble persons shall meet as politicians, and shall debate, sometimes rather sharply, sometimes in a style which we dare not imitate for fear that you, Sir, should call us to order, about the Canadian Clergy Reserves, the Irish National Schools, the Disabilities of the Jews, the Government of India. I do not blame the noble lord for not attempting to alter this state of things. We cannot alter it, I know, without taking up the foundations of our constitution. But is it not absurd, while we live under such a constitution, while, throughout our whole system from top to bottom, political functions and judicial functions are combined. to single out, not on any special ground, but merely at random, one judge from a crowd of judges, and to exclude him, not from all political assemblies, but merely from one political assembly? Was there ever such a mummery as the carrying of this bill to the other House will be, if, unfortunately, it

should be carried thither. The noble lord, himself, I have no doubt, a magistrate, himself at once a judge and a politician, accompanied by several gentlemen who are at once judges and politicians, will go to the bar of the Lords, who are all at once judges and politicians, will deliver the bill into the hands of the Chancellor, who is at once the chief judge of the realm and a Cabinet Minister, and will return hither proud of having purified the administration of justice from the taint of politics.

No, Sir, no; for the purpose of purifying the administration of justice this bill is utterly impotent. It will be effectual for one purpose, and for one purpose only, for the purpose of weakening and degrading the House of Commons. This is not the first time that an attempt has been made, under specious pretexts, to lower the character and impair the efficiency of the assembly which represents the great body of the nation. More than a hundred and fifty years ago there was a general cry that the number of placemen in Parliament was too great. No doubt, Sir, the number was too great: the evil required a remedy: but some rash and shortsighted, though probably well meaning, men, proposed a remedy which would have produced far more evil than it would have removed. They inserted in the Act of Settlement a clause providing that no person who held any office under the Crown should sit in this House. The clause was not to take effect till the House of Hanover should come to the throne; and, happily for the country, before the House of Hanover came to the throne, the clause was repealed. Had it not been repealed, the Act of Settlement would have been, not a blessing but a curse to the country. There was no

want, indeed, of plausible and popular commonplaces in favour of this clause. No man, it was said, can serve two masters. A courtier cannot be a good guardian of public liberty. A man who derives his subsistence from the taxes cannot be trusted to check the public expenditure. You will never have purity, you will never have economy, till the stewards of the nation are independent of the Crown, and dependent only on their constituents. Yes; all this sounded well: but what man of sense now doubts that the effect of a law excluding all official men from this House would have been to depress that branch of the legislature which springs from the people, and to increase the power and consideration of the hereditary aristocracy? The whole administration would have been in the hands of peers. The chief object of every eminent Commoner would have been to obtain a peerage. As soon as any man had gained such distinction here by his eloquence and knowledge that he was selected to fill the post of Chancellor of the Exchequer, Secretary of State, or First Lord of the Admiralty, he would instantly have turned his back on what would then indeed have been emphatically the Lower House, and would have gone to that chamber in which alone it would have been possible for him fully to display his abilities and fully to gratify his ambition. Walpole and Pulteney, the first Pitt and the second Pitt, Fox, Windham, Canning, Peel, all the men whose memory is inseparably associated with this House, all the men of whose names we think with pride as we pass through St. Stephen's Hall, the place of their contentions and their triumphs, would, in the vigour and prime of life, have become Barons and Viscounts. The great conflict of parties would have

been transferred from the Commons to the Lords. It would have been impossible for an assembly, in which not a single statesman of great fame, authority, and experience in important affairs would have been found, to hold its own against an assembly in which all our eminent politicians and orators would have been collected. All England, all Europe, would have been reading with breathless interest the debates of the peers, and looking with anxiety for the divisions of the peers, while we, instead of discussing high questions of state, and giving a general direction to the whole domestic and foreign policy of the realm, should have been settling the details of canal bills and turnpike bills.

The noble lord, the Member for Kent, does not, it is true, propose so extensive and important a change as that which the authors of the Act of Settlement wished to make. But the tendency of this bill is, beyond all doubt, to make this House less capable than it once was, and less capable than the other House now is, of discharging some of the most important duties of a legislative assembly.

Of the duties of a legislative assembly, the noble lord, and some of those gentlemen who support his bill, seem to me to have formed a very imperfect notion. They argue as if the only business of the House of Commons was to turn one set of men out of place, and to bring another set into place; as if a judge could find no employment here but factious wrangling. Sir, it is not so. There are extensive and peaceful provinces of parliamentary business far removed from the fields of battle where hostile parties encounter each other. A great jurist, seated among us, might, without taking any prominent part in the

strife between the Ministry and the Opposition, render to his country most valuable service, and earn for himself an imperishable name. Nor was there ever a time when the assistance of such a jurist was more needed, or was more likely to be justly appreciated, than at present. No observant man can fail to perceive that there is in the public mind a general, a growing, an earnest, and at the same time, I must say, a most sober and reasonable desire for extensive law reform. I hope and believe that, for some time to come, no year will pass without progress in law reform; and I hold that, of all law reformers, the best is a learned, upright, and large-minded judge. At such a time it is that we are called upon to shut the door of this House against the last great judicial functionary, to whom the unwise legislation of former parliaments has left it open. In the meantime, the other House is open to him. It is open to all the other judges who are not suffered to sit here. It is open to the Judge of the Admiralty Court, whom the noble lord, twelve or thirteen years ago, prevailed on us, in an unlucky hour, to exclude. In the other House is the Lord Chancellor, and several retired Chancellors, a Lord Chief Justice, and several retired Chief Justices. The Queen may place there to-morrow the Chief Baron, the two Lords Justices, the three Vice Chancellors, the very Master of the Rolls about whom we are debating; and we, as if we were not already too weak for the discharge of our functions, are trying to weaken ourselves still more. I harbour no unfriendly feeling towards the Lords. I anticipate no conflict with them. But it is not fit that we should be unable to bear an equal part with them in the great work of improving and digesting the law. It is

not fit that we should be under the necessity of placing implicit confidence in their superior wisdom, and of registering, without amendment, any bill which they may send us. To that humiliating situation we are, I grieve to say, fast approaching. I was much struck by a circumstance which occurred a few days ago. I heard the honourable Member for Montrose, who, by the bye, is one of the supporters of this bill, urge the House to pass the Combination Bill, for a most extraordinary reason. "We really," he said, "cannot tell how the law about combinations of workmen at present stands; and, not knowing how the law at present stands, we are quite incompetent to decide whether it ought to be altered. Let us send the bill up to the Lords. They understand these things. We do not. There are Chancellors, and ex-Chancellors, and Judges among them. No doubt they will do what is proper, and I shall acquiesce in their decision." Why, Sir, did ever any legislative assembly abdicate its functions in so humiliating a manner? Is it not strange that a gentleman, distinguished by his love of popular institutions, and by the jealousy with which he regards the aristocracy, should gravely propose that, on a subject which interests and excites hundreds of thousands of our constituents, we should declare ourselves incompetent to form an opinion, and beg the Lords to tell us what we ought to do? And is it not stranger still that, while he admits the incompetence of the House to discharge some of its most important functions, and while he attributes that incompetence to the want of judicial assistance, he should yet wish to shut out of the House the only high judicial functionary who is now permitted to come into it?

But, says the honourable Member for Montrose, the

Master of the Rolls has duties to perform, which, if properly performed, will leave him no leisure for attendance in this House; it is important that there should be a division of labour: no man can do two things well; and, if we suffer a judge to be a member of Parliament, we shall have both a bad member of Parliament and a bad judge.

Now, Sir, if this argument proves anything, it proves that the Master of the Rolls, and indeed all the other judges, ought to be excluded from the House of Lords as well as from the House of Commons. But I deny that the argument is of any weight. The division of labour has its disadvantages as well as its advantages. In operations merely mechanical, you can hardly carry the subdivision too far; but you may very easily carry it too far in operations which require the exercise of high intellectual powers. It is quite true, as Adam Smith tells us, that a pin will be best made when one man does nothing but cut the wire, when another does nothing but mould the head, when a third does nothing but sharpen the point. But it is not true that Michael Angelo would have been a greater painter if he had not been a sculptor: it is not true that Newton would have been a greater experimental philosopher if he had not been a geometrician: and it is not true that a man will be a worse lawgiver because he is a great judge. I believe that there is as close a connection between the functions of the judge and the functions of the lawgiver as between anatomy and surgery. Would it not be the height of absurdity to lay down the rule that nobody who dissected the dead should be allowed to operate on the living? The effect of such a division of labour would be that you would have nothing but bungling surgery; and the

effect of the division of labour which the honourable Member for Montrose recommends will be that we shall have plenty of bungling legislation. Who can be so well qualified to make laws and to mend laws as a man whose business is to interpret laws and to administer laws. As to this point I have great pleasure in citing an authority to which the honourable Member for Montrose will, I know, be disposed to pay the greatest deference; the authority of Mr. Bentham. Of Mr. Bentham's moral and political speculations, I entertain, I must own, a very mean opinion; but I hold him in high esteem as a jurist. Among all his writings, there is none which I value more than the treatise on Judicial Organisation. In that excellent work he discusses the question whether a person who holds a judicial office ought to be permitted to hold with it any other office. Mr. Bentham argues strongly and convincingly against pluralities; but he admits that there is one exception to the general rule. A judge, he says, ought to be allowed to sit in the legislature as a representative of the people: for the best school for a legislator is the judicial bench; and the supply of legislative skill is in all societies so scanty that none of it can be spared.

My honourable friend, the Member for Surrey, has completely refuted another argument to which the noble lord, the Member for Kent, appears to attach considerable importance. The noble lord conceives that no person can enter this House without stooping to practise arts which would ill become the gravity of the judicial character. He spoke particularly of what he called the jollifications usual at elections. Undoubtedly the festivities at elections are sometimes disgraced by intemperance, and sometimes by buf-

foonery: and I wish from the bottom of my heart that intemperance and buffoonery were the worst means to which men, reputed upright and honourable in private life, have resorted in order to obtain seats in the legislature. I should, indeed, be sorry if any Master of the Rolls should court the favour of the populace by playing the mountebank on the hustings or on tavern tables. Still more sorry should I be if any Master of the Rolls were to disgrace himself and his office by employing the ministry of the Frails and the Flewkers, by sending vile emissaries with false names, false addresses, and bags of sovereigns, to buy the votes of the poor. No doubt a Master of the Rolls ought to be free, not only from guilt, but from suspicion. I have not hitherto mentioned the present Master of the Rolls. I have not mentioned him because, in my opinion, this question ought to be decided by general and not by personal considerations. I cannot, however, refrain from saying, with a confidence which springs from long and intimate acquaintance, that my valued friend, Sir John Romilly, will never again sit in this House unless he can come in by means very different from those by which he was turned out. But, Sir, are we prepared to say that no person can become a representative of the English people except by some sacrifice of integrity, or at least of personal dignity? If it be so, we had indeed better think of setting our House in order. If it be so, the prospects of our country are dark indeed. How can England retain her place among the nations, if the assembly to which all her dearest interests are confided, the assembly which can, by a single vote, transfer the management of her affairs to new hands, and give a new direction to her whole policy, foreign and do-

mestic, financial, commercial, and colonial, is closed against every man who has rigid principles and a fine sense of decorum? But it is not so. Did that great judge, Sir William Scott, lower his character by entering this House as Member for the University of Oxford? Did Sir John Copley lower his character by entering this House as Member for the University of Cambridge? But the universities, you say, are constituent bodies of a very peculiar kind. Be it so. Then, by your own admission, there are a few seats in this House which eminent judges have filled and may fill without any unseemly condescension. But it would be most unjust, and in me, especially, most ungrateful, to compliment the universities at the expense of other constituent bodies. I am one of many members who know by experience that a generosity and a delicacy of sentiment which would do honour to any seat of learning may be found among the ten pound householders of our great cities. And, Sir, as to the counties, need we look further than to your chair? It is of as much importance that you should punctiliously preserve your dignity as that the Master of the Rolls should punctiliously preserve his dignity. If you had, at the last election, done anything inconsistent with the integrity, with the gravity, with the suavity of temper which so eminently qualify you to preside over our deliberations, your public usefulness would have been seriously diminished. But the great county which does itself honour by sending you to the House required from you nothing unbecoming your character, and would have felt itself degraded by your degradation. And what reason is there to doubt that other constituent bodies would act as justly and considerately towards a judge distin-

guished by uprightness and ability as Hampshire has acted towards you?

One very futile argument only remains to be noticed. It is said that we ought to be consistent; and that, having turned the Judge of the Admiralty out of the House, we ought to send the Master of the Rolls after him. I admit, Sir, that our system is at present very anomalous. But it is better that a system should be anomalous than that it should be uniformly and consistently bad. You have entered on a wrong course. My advice is first that you stop, and secondly that you retrace your steps. The time is not far distant when it will be necessary for us to revise the constitution of this House. On that occasion, it will be part of our duty to reconsider the rule which determines what public functionaries shall be admitted to sit here, and what public functionaries shall be excluded. That rule is, I must say, singularly absurd. It is this, that no person who holds any office created since the twenty-fifth of October, 1705, shall be a member of the House of Commons. Nothing can be more unreasonable or more inconvenient. In 1705, there were two Secretaries of State and two Under Secretaries. Consequently, to this day, only two Secretaries of State and two Under Secretaries can sit among us. Suppose that the Home Secretary and the Colonial Secretary are members of this House, and that the office of Foreign Secretary becomes vacant. In that case, no member of this House, whatever may be his qualifications, his fame in diplomacy, his knowledge of all the politics of the Courts of Europe, can be appointed. Her Majesty must give the Admiralty to the commoner who is, of all her subjects, fittest for the Foreign Office, and the seals of

the Foreign Office to some peer who would perhaps be fitter for the Admiralty. Again, the Postmaster General cannot sit in this House. Yet, why not? He always comes in and goes out with the Government: he is often a member of the Cabinet; and I believe that he is, of all public functionaries, the Chancellor of the Exchequer alone excepted, the one whom it would be most convenient to have here. I earnestly hope that, before long, this whole subject will be taken into serious consideration. As to the judges, the rule which I should wish to see laid down is very simple. I would admit into this House any judge whom the people might elect, unless there were some special reason against admitting him. There is a special reason against admitting any Irish or Scotch judge. Such a judge cannot attend this House without ceasing to attend his court. There is a special reason against admitting the Judges of the Queen's Bench and of the Common Pleas, and the Barons of the Exchequer. They are summoned to the House of Lords; and they sit there: their assistance is absolutely necessary to enable that House to discharge its functions as the highest court of appeal; and it would manifestly be both inconvenient and derogatory to our dignity that members of our body should be at the beck and call of the peers. I see no special reason for excluding the Master of the Rolls; and I would, therefore, leave our door open to him. I would open it to the Judge of the Admiralty, who has been most unwisely excluded. I would open it to other great judicial officers who are now excluded solely because their offices did not exist in 1705, particularly to the two Lords Justices, and the three Vice Chancellors. In this way, we should, I

am convinced, greatly facilitate the important and arduous work of law reform; we should raise the character of this House: and I need not say that with the character of this House must rise or fall the estimation in which representative institutions are held throughout the world. But, whether the extensive changes which I have recommended shall be thought desirable or not, I trust that we shall reject the bill of the noble lord. I address myself to the Conservative members on your left hand; and I ask them whether they are prepared to alter, on grounds purely theoretical, a system which has lasted during twenty generations without producing the smallest practical evil. I turn to the Liberal members on this side; and I ask them whether they are prepared to lower the reputation and to impair the efficiency of that branch of the legislature which springs from the people. For myself, Sir, I hope that I am at once a Liberal and a Conservative politician; and, in both characters, I shall give a clear and conscientious vote in favour of the amendment moved by my honourable friend.

LAYS OF ANCIENT ROME.

PREFACE.

That what is called the history of the Kings and early Consuls of Rome is to a great extent fabulous, few scholars have, since the time of Beaufort, ventured to deny. It is certain that, more than three hundred and sixty years after the date ordinarily assigned for the foundation of the city, the public records were, with scarcely an exception, destroyed by the Gauls. It is certain that the oldest annals of the commonwealth were compiled more than a century and a half after this destruction of the records. It is certain, therefore, that the great Latin writers of the Augustan age did not possess those materials, without which a trustworthy account of the infancy of the republic could not possibly be framed. Those writers own, indeed, that the chronicles to which they had access were filled with battles that were never fought, and Consuls that were never inaugurated; and we have abundant proof that, in these chronicles, events of the greatest importance, such as the issue of the war with Porsena, and the issue of the war with Brennus, were grossly misrepresented. Under these circumstances a wise man will look with great suspicion on the legend which has come down to us. He will perhaps be inclined to regard the princes who are said to have founded the civil and religious institutions of Rome, the son of Mars, and the husband of Egeria, as mere mythological personages, of the same class with Perseus and Ixion. As

he draws nearer and nearer to the confines of authentic history, he will become less and less hard of belief. He will admit that the most important parts of the narrative have some foundation in truth. But he will distrust almost all the details, not only because they seldom rest on any solid evidence, but also because he will constantly detect in them, even when they are within the limits of physical possibility, that peculiar character, more easily understood than defined, which distinguishes the creations of the imagination from the realities of the world in which we live.

The early history of Rome is indeed far more poetical than anything else in Latin literature. The loves of the Vestal and the God of War, the cradle laid among the reeds of Tiber, the fig-tree, the she-wolf, the shepherd's cabin, the recognition, the fratricide, the rape of the Sabines, the death of Tarpeia, the fall of Hostus Hostilius, the struggle of Mettus Curtius through the marsh, the women rushing with torn raiment and dishevelled hair between their fathers and their husbands, the nightly meetings of Numa and the Nymph by the well in the sacred grove, the fight of the three Romans and the three Albans, the purchase of the Sibylline books, the crime of Tullia, the simulated madness of Brutus, the ambiguous reply of the Delphian oracle to the Tarquins, the wrongs of Lucretia, the heroic actions of Horatius Cocles, of Scævola, and of Cloelia, the battle of Regillus won by the aid of Castor and Pollux, the defence of Cremera, the touching story of Coriolanus, the still more touching story of Virginia, the wild legend about the draining of the Alban lake, the combat between Valerius Corvus and the gigantic Gaul, are among the many instances which will at once suggest themselves to every reader.

In the narrative of Livy, who was a man of fine imagination, these stories retain much of their genuine character.

Nor could even the tasteless Dionysius distort and mutilate them into mere prose. The poetry shines, in spite of him, through the dreary pedantry of his eleven books. It is discernible in the most tedious and in the most superficial modern works on the early times of Rome. It enlivens the dulness of the Universal History, and gives a charm to the most meagre abridgements of Goldsmith.

Even in the age of Plutarch there were discerning men who rejected the popular account of the foundation of Rome, because that account appeared to them to have the air, not of a history, but of a romance or a drama. Plutarch, who was displeased at their incredulity, had nothing better to say in reply to their arguments than that chance sometimes turns poet, and produces trains of events not to be distinguished from the most elaborate plots which are constructed by art.[1] But though the existence of a poetical element in the early history of the Great City was detected so many ages ago, the first critic who distinctly saw from what source that poetical element had been derived was James Perizonius, one of the most acute and learned antiquaries of the seventeenth century. His theory, which, in his own days, attracted little or no notice, was revived in the present generation by Niebuhr, a man who would have been the first writer of his time, if his talent for communicating truths had borne any proportion to his talent for investigating them. That theory has been adopted by several eminent scholars of our own country, particularly by the

[1] Ὑποπτον μὲν ἐνίοις ἐστὶ τὸ δραματικὸν καὶ πλασματῶδες· οὐ δεῖ δὲ ἀπιστεῖν, τὴν τύχην ὁρῶντας, οἵων ποιημάτων δημιουργός ἐστι. — *Plut. Rom.* viii. This remarkable passage has been more grossly misinterpreted than any other in the Greek language, where the sense was so obvious. The Latin version of Cruserius, the French version of Amyot, the old English version by several hands, and the later English version by Langhorne, are all equally destitute of every trace of the meaning of the original. None of the translators saw even that ποίημα is a poem. They all render it an event.

Bishop of St. David's, by Professor Malden, and by the lamented Arnold. It appears to be now generally received by men conversant with classical antiquity; and indeed it rests on such strong proofs, both internal and external, that it will not be easily subverted. A popular exposition of this theory, and of the evidence by which it is supported, may not be without interest even for readers who are unacquainted with the ancient languages.

The Latin literature which has come down to us is of later date than the commencement of the second Punic War, and consists almost exclusively of works fashioned on Greek models. The Latin metres, heroic, elegiac, lyric, and dramatic, are of Greek origin. The best Latin epic poetry is the feeble echo of the Iliad and Odyssey. The best Latin eclogues are imitations of Theocritus. The plan of the most finished didactic poem in the Latin tongue was taken from Hesiod. The Latin tragedies are bad copies of the masterpieces of Sophocles and Euripides. The Latin comedies are free translations from Demophilus, Menander, and Apollodorus. The Latin philosophy was borrowed, without alteration, from the Portico and the Academy; and the great Latin orators constantly proposed to themselves as patterns the speeches of Demosthenes and Lysias.

But there was an earlier Latin literature, a literature truly Latin, which has wholly perished, which had, indeed, almost wholly perished long before those whom we are in the habit of regarding as the greatest Latin writers were born. That literature abounded with metrical romances, such as are found in every country where there is much curiosity and intelligence, but little reading and writing. All human beings, not utterly savage, long for some information about past times, and are delighted by narratives which present pictures to the eye of the mind. But it is only in very enlightened communities that books are readily accessi

ble. Metrical composition, therefore, which, in a highly civilised nation, is a mere luxury, is, in nations imperfectly civilised, almost a necessary of life, and is valued less on account of the pleasure which it gives to the ear, than on account of the help which it gives to the memory. A man who can invent or embellish an interesting story, and put it into a form which others may easily retain in their recollection, will always be highly esteemed by a people eager for amusement and information, but destitute of libraries. Such is the origin of ballad-poetry, a species of composition which scarcely ever fails to spring up and flourish in every society, at a certain point in the progress towards refinement. Tacitus informs us that songs were the only memorials of the past which the ancient Germans possessed. We learn from Lucan and from Ammianus Marcellinus that the brave actions of the ancient Gauls were commemorated in the verses of Bards. During many ages, and through many revolutions, minstrelsy retained its influence over both the Teutonic and the Celtic race. The vengeance exacted by the spouse of Attila for the murder of Siegfried was celebrated in rhymes, of which Germany is still justly proud. The exploits of Athelstane were commemorated by the Anglo-Saxons, and those of Canute by the Danes, in rude poems, of which a few fragments have come down to us. The chants of the Welsh harpers preserved, through ages of darkness, a faint and doubtful memory of Arthur. In the Highlands of Scotland may still be gleaned some relics of the old songs about Cuthullin and Fingal. The long struggle of the Servians against the Ottoman power was recorded in lays full of martial spirit. We learn from Herrera that, when a Peruvian Inca died, men of skill were appointed to celebrate him in verses, which all the people learned by heart, and sang in public on days of festival. The feats of Kurroglou, the great freebooter of Turkistan,

recounted in ballads composed by himself, are known in every village of Northern Persia. Captain Beechey heard the bards of the Sandwich Islands recite the heroic achievements of Tamehameha, the most illustrious of their kings. Mungo Park found in the heart of Africa a class of singing men, the only annalists of their rude tribes, and heard them tell the story of the victory which Damel, the negro prince of the Jaloffs, won over Abdulkader, the Mussulman tyrant of Foota Torra. This species of poetry attained a high degree of excellence among the Castilians, before they began to copy Tuscan patterns. It attained a still higher degree of excellence among the English and the Lowland Scotch, during the fourteenth, fifteenth, and sixteenth centuries. But it reached its full perfection in ancient Greece: for there can be no doubt that the great Homeric poems are generically ballads, though widely distinguished from all other ballads, and indeed from almost all other human compositions, by transcendent sublimity and beauty.

As it is agreeable to general experience that, at a certain stage in the progress of society, ballad-poetry should flourish, so is it also agreeable to general experience that, at a subsequent stage in the progress of society, ballad-poetry should be undervalued and neglected. Knowledge advances: manners change: great foreign models of composition are studied and imitated. The phraseology of the old minstrels becomes obsolete. Their versification, which, having received its laws only from the ear, abounds in irregularities, seems licentious and uncouth. Their simplicity appears beggarly when compared with the quaint forms and gaudy colouring of such artists as Cowley and Gongora. The ancient lays, unjustly despised by the learned and polite, linger for a time in the memory of the vulgar, and are at length too often irretrievably lost. We cannot wonder that the ballads of Rome should have altogether disappeared,

when we remember how very narrowly, in spite of the invention of printing, those of our own country and those of Spain escaped the same fate. There is indeed little doubt that oblivion covers many English songs equal to any that were published by Bishop Percy, and many Spanish songs as good as the best of those which have been so happily translated by Mr. Lockhart. Eighty years ago England possessed only one tattered copy of Childe Waters and Sir Cauline, and Spain only one tattered copy of the noble poem of the Cid. The snuff of a candle, or a mischievous dog, might in a moment have deprived the world forever of any of those fine compositions. Sir Walter Scott, who united to the fire of a great poet the minute curiosity and patient diligence of a great antiquary, was but just in time to save the precious relics of the Minstrelsy of the Border. In Germany, the lay of the Nibelungs had been long utterly forgotten, when, in the eighteenth century, it was, for the first time, printed from a manuscript in the old library of a noble family. In truth, the only people who, through their whole passage from simplicity to the highest civilisation, never for a moment ceased to love and admire their old ballads, were the Greeks.

That the early Romans should have had ballad-poetry, and that this poetry should have perished, is therefore not strange. It would, on the contrary, have been strange if these things had not come to pass; and we should be justified in pronouncing them highly probable, even if we had no direct evidence on the subject. But we have direct evidence of unquestionable authority.

Ennius, who flourished in the time of the Second Punic War, was regarded in the Augustan age as the father of Latin poetry. He was, in truth, the father of the second school of Latin poetry, the only school of which the works have descended to us. But from Ennius himself we learn

that there were poets who stood to him in the same relation in which the author of the romance of Count Alarcos stood to Garcilaso, or the author of the "Lytell Geste of Robyn Hode" to Lord Surrey. Ennius speaks of verses which the Fauns and the Bards were wont to chant in the old time, when none had yet studied the graces of speech, when none had yet climbed the peaks sacred to the Goddesses of Grecian song. "Where," Cicero mournfully asks, "are those old verses now?"[1]

Contemporary with Ennius was Quintus Fabius Pictor, the earliest of the Roman annalists. His account of the infancy and youth of Romulus and Remus has been preserved by Dionysius, and contains a very remarkable reference to the ancient Latin poetry. Fabius says that, in his time, his countrymen were still in the habit of singing ballads about the Twins. "Even in the hut of Faustulus," — so these old lays appear to have run, — "the children of Rhea and Mars were, in port and in spirit, not like unto swineherds or cowherds, but such that men might well guess them to be of the blood of Kings and Gods."[2]

[1] "Quid? Nostri versus ubi sunt?
. . . . . 'Quos olim Fauni vatesque canebant,
Cum neque Musarum scopulos quisquam superârat,
Nec dicti studiosus erat.'"

Brutus, xxii.

The Muses, it should be observed, are Greek divinities. The Italian Goddesses of verse were the Camœnæ. At a later period, the appellations were used indiscriminately; but in the age of Ennius there was probably a distinction. In the epitaph of Nævius, who was the representative of the old Italian school of poetry, the Camœnæ, not the Muses, are represented as grieving for the loss of their votary. The "Musarum scopuli" are evidently the peaks of Parnassus.

Scaliger, in a note on Varro (*De Lingua Latina*, lib. vi.), suggests, with great ingenuity, that the Fauns, who were represented by the superstition of later ages as a race of monsters, half gods and half brutes, may really have been a class of men who exercised in Latium, at a very remote period, the same functions which belonged to the Magians in Persia and to the Bards in Gaul.

[2] Οἱ δὲ ἀνδρωθέντες γίνονται, κατά τε ἀξίωσιν μορφῆς καὶ φρονήματος ὄγκον οὐ συοφορβοῖς καὶ βουκόλοις ἐοικότες, ἀλλ' οἵους ἄν τις ἀξιώσειε τοὺς ἐκ βασιλείου

Cato the Censor, who also lived in the days of the Second Punic War, mentioned this lost literature in his lost work

τε φύντας γένους, καὶ ἀπὸ δαιμόνων σπορᾶς γενέσθαι νομιζομένους, ὡς ἐν τοῖς πατρίοις ὕμνοις ὑπὸ Ῥωμαίων ἔτι καὶ νῦν ᾄδεται. — *Dion. Hal.* i. 79. This passage has sometimes been cited as if Dionysius had been speaking in his own person, and had, Greek as he was, been so industrious or so fortunate as to discover some valuable remains of that early Latin poetry which the greatest Latin writers of his age regretted as hopelessly lost. Such a supposition is highly improbable; and indeed it seems clear from the context that Dionysius, as Reiske and other editors evidently thought, was merely quoting from Fabius Pictor. The whole passage has the air of an extract from an ancient chronicle, and is introduced by the words, Κόϊντος μὲν Φάβιος, ὁ Πίκτωρ λεγόμενος, τῇδε γράφει.

Another argument may be urged which seems to deserve consideration. The author of the passage in question mentions a thatched hut which, in his time, stood between the summit of Mount Palatine and the Circus. This hut, he says, was built by Romulus, and was constantly kept in repair at the public charge, but never in any respect embellished. Now, in the age of Dionysius there certainly was at Rome a thatched hut, said to have been that of Romulus. But this hut, as we learn from Vitruvius, stood, not near the Circus, but in the Capitol. (*Vit.* ii. 1.) If, therefore, we understand Dionysius to speak in his own person, we can reconcile his statement with that of Vitruvius only by supposing that there were at Rome, in the Augustan age, two thatched huts, both believed to have been built by Romulus, and both carefully repaired and held in high honour. The objections to such a supposition seem to be strong. Neither Dionysius nor Vitruvius speaks of more than one such hut. Dio Cassius informs us that twice, during the long administration of Augustus, the hut of Romulus caught fire. (xlviii. 43, liv. 29.) Had there been two such huts, would he not have told us of which he spoke? An English historian would hardly give an account of a fire at Queen's College without saying whether it was at Queen's College, Oxford, or at Queen's College, Cambridge. Marcus Seneca, Macrobius, and Conon, a Greek writer from whom Photius has made large extracts, mention only one hut of Romulus, that in the Capitol. (*M. Seneca, Contr.* i. 6.; *Macrobius, Sat.* i. 15.; *Photius, Bibl.* 186.) Ovid, Livy, Petronius, Valerius Maximus, Lucius Seneca, and St. Jerome, mention only one hut of Romulus, without specifying the site. (*Ovid. Fasti*, iii. 183.; *Liv.* v. 53.; *Petronius Fragm.*; *Val. Max.* iv. 4.; *L. Seneca, Consolatio ad Helviam; D. Hieron. ad Paulinianum de Didymo.*)

The whole difficulty is removed, if we suppose that Dionysius was merely quoting Fabius Pictor. Nothing is more probable than that the cabin, which in the time of Fabius stood near the Circus, might, long before the age of Augustus, have been transported to the Capitol, as the place fittest, by reason both of its safety and of its sanctity, to contain so precious a relic.

The language of Plutarch confirms this hypothesis. He describes, with great precision, the spot where Romulus dwelt, on the slope of Mount Pala-

on the antiquities of his country. Many ages, he said, before his time, there were ballads in praise of illustrious men: and these ballads it was the fashion for the guests at banquets to sing in turn while the piper played. "Would," exclaims Cicero, "that we still had the old ballads of which Cato speaks!" [1]

Valerius Maximus gives us exactly similar information, without mentioning his authority, and observes that the ancient Roman ballads were probably of more benefit to the young than all the lectures of the Athenian schools, and that to the influence of the national poetry were to be ascribed the virtues of such men as Camillus and Fabricius.[2]

Varro, whose authority on all questions connected with the antiquities of his country is entitled to the greatest respect, tells us that at banquets it was once the fashion for boys to sing, sometimes with and sometimes without instrumental music, ancient ballads in praise of men of former times. These young performers, he observes, were of un-

tine, leading to the Circus; but he says not a word implying that the dwelling was still to be seen there. Indeed, his expressions imply that it was no longer there. The evidence of Solinus is still more to the point. He, like Plutarch, describes the spot where Romulus had resided, and says expressly that the hut had been there, but that in his time it was there no longer. The site, it is certain, was well remembered; and probably retained its old name, as Charing Cross and the Haymarket have done. This is probably the explanation of the words, "casa Romuli," in Victor's description of the Tenth Region of Rome, under Valentinian.

[1] Cicero refers twice to this important passage in Cato's Antiquities:—"Gravissimus auctor in Originibus dixit Cato, morem apud majores hunc epularum fuisse, ut deinceps, qui accubarent, canerent ad tibiam clarorum virorum laudes atque virtutes. Ex quo perspicuum est, et cantus tum fuisse rescriptos vocum sonis, et carmina."—*Tusc. Quæst.* iv. 2. Again: "Utinam exstarent illa carmina, quæ, multis sæculis ante suam ætatem, in epulis esse cantitata a singulis convivis de clarorum virorum laudibus, in Originibus scriptum reliquit Cato."—*Brutus*, xix.

[2] "Majores natu in conviviis ad tibias egregia superiorum opera carmine comprehensa pangebant, quo ad ea imitanda juventutem alacriorem rederent. . . . . Quas Athenas, quam scholam, quæ alienigena studia huic domesticæ disciplinæ prætulerim? Inde oriebantur Camilli, Scipiones, Fabricii, Marcelli, Fabii." —*Val. Max.* ii. 1.

blemished character, a circumstance which he probably mentioned because, among the Greeks, and indeed in his time among the Romans also, the morals of singing boys were in no high repute.[1]

The testimony of Horace, though given incidentally, confirms the statements of Cato, Valerius Maximus, and Varro. The poet predicts that, under the peaceful administration of Augustus, the Romans will, over their full goblets, sing to the pipe, after the fashion of their fathers, the deeds of brave captains, and the ancient legends touching the origin of the city.[2]

The proposition, then, that Rome had ballad-poetry is not merely in itself highly probable, but is fully proved by direct evidence of the greatest weight.

This proposition being established, it becomes easy to understand why the early history of the city is unlike almost everything else in Latin literature, native where almost everything else is borrowed, imaginative where almost everything else is prosaic. We can scarcely hesitate to pronounce that the magnificent, pathetic, and truly national legends, which present so striking a contrast to all that surrounds them, are broken and defaced fragments of that early poetry which, even in the age of Cato the Censor, had become antiquated, and of which Tully had never heard a line.

That this poetry should have been suffered to perish will

1 "In conviviis pueri modesti ut cantarent carmina antiqua, in quibus laudes erant majorum, et assa voce, et cum tibicine." Nonius, *Assa voce pro sola*.

2 "Nosque et profestis lucibus et sacris,
Inter jocosi munera Liberi,
Cum prole matronisque nostris,
Rite Deos prius apprecati,
Virtute functos, more patrum, duces,
Lydis remixto carmine tibiis,
Trojamque, et Anchisen, et almæ
Progeniem Veneris canemus."
Carm. iv. 15

not appear strange when we consider how complete was the triumph of the Greek genius over the public mind of Italy. It is probable that, at an early period, Homer and Herodotus furnished some hints to the Latin Minstrels:[1] but it was not till after the war with Pyrrhus that the poetry of Rome began to put off its old Ausonian character. The transformation was soon consummated. The conquered, says Horace, led captive the conquerors. It was precisely at the time at which the Roman people rose to unrivalled political ascendancy that they stooped to pass under the intellectual yoke. It was precisely at the time at which the sceptre departed from Greece that the empire of her language and of her arts became universal and despotic. The revolution indeed was not effected without a struggle. Nævius seems to have been the last of the ancient line of poets. Ennius was the founder of a new dynasty. Nævius celebrated the First Punic War in Saturnian verse, the old national verse of Italy.[2] Ennius sang the Second Punic

[1] See the Preface to the Lay of the Battle of Regillus.

[2] Cicero speaks highly in more than one place of this poem of Nævius; Ennius sneered at it, and stole from it.

As to the Saturnian measure, see Hermann's *Elementa Doctrinæ Metricæ*, iii. 9.

The Saturnian line, according to the grammarians, consisted of two parts. The first was a catalectic dimeter iambic; the second was composed of three trochees. But the licence taken by the early Latin poets seems to have been almost boundless. The most perfect Saturnian line which has been preserved was the work, not of a professional artist, but of an amateur:

"Dabunt malum Metelli Nævio poetæ."

There has been much difference of opinion among learned men respecting the history of this measure. That it is the same with a Greek measure used by Archilochus is indisputable. (*Bentley, Phalaris*, xi.) But in spite of the authority of Terentianus Maurus, and of the still higher authority of Bentley, we may venture to doubt whether the coincidence was not fortuitous. We constantly find the same rude and simple numbers in different countries, under circumstances which make it impossible to suspect that there has been imitation on either side. Bishop Heber heard the children of a village in Bengal singing "Radha, Radha," to the tune of "My boy Billy." Neither the Castilian nor the German minstrels of the middle

War in numbers borrowed from the Iliad. The elder poet, in the epitaph which he wrote for himself, and which is a fine specimen of the early Roman diction and versification,

ages owed anything to Paros or to ancient Rome. Yet both the poem of the Cid and the poem of the Nibelungs contain many Saturnian verses; as, —

"Estas nuevas a mio Cid eran venidas."
"A mi lo dicen; a ti dan las orejadas."
"Man möhte michel wunder von Sifride sagen."
"Wa ich den Künic vinde daz sol man mir sagen."

Indeed, there cannot be a more perfect Saturnian line than one which is sung in every English nursery —

"The queen was in her parlour eating bread and honey;"

yet the author of this line, we may be assured, borrowed nothing from either Nævius or Archilochus.

On the other hand, it is by no means improbable that, two or three hundred years before the time of Ennius, some Latin minstrel may have visited Sybaris or Crotona, may have heard some verses of Archilochus sung, may have been pleased with the metre, and may have introduced it at Rome. Thus much is certain, that the Saturnian measure, if not a native of Italy, was at least so early and so completely naturalised there that its foreign origin was forgotten.

Bentley says indeed that the Saturnian measure was first brought from Greece into Italy by Nævius. But this is merely *obiter dictum*, to use a phrase common in our courts of law, and would not have been deliberately maintained by that incomparable critic, whose memory is held in reverence by all lovers of learning. The arguments which might be brought against Bentley's assertion — for it is mere assertion, supported by no evidence — are innumerable. A few will suffice.

1. Bentley's assertion is opposed to the testimony of Ennius. Ennius sneered at Nævius for writing on the First Punic War in verses such as the old Italian bards used before Greek literature had been studied. Now the poem of Nævius was in Saturnian verse. Is it possible that Ennius could have used such expressions, if the Saturnian verse had been just imported from Greece for the first time?

2. Bentley's assertion is opposed to the testimony of Horace. "When Greece," says Horace, "introduced her arts into our uncivilised country, those rugged Saturnian numbers passed away." Would Horace have said this, if the Saturnian numbers had been imported from Greece just before the hexameter?

3. Bentley's assertion is opposed to the testimony of Festus and of Aurelius Victor, both of whom positively say that the most ancient prophecies attributed to the Fauns were in Saturnian verse.

4. Bentley's assertion is opposed to the testimony of Terentianus Maurus, to whom he has himself appealed. Terentianus Maurus does indeed say

plaintively boasted that the Latin language had died with him.[1] Thus what to Horace appeared to be the first faint dawn of Roman literature appeared to Nævius to be its hopeless setting. In truth, one literature was setting, and another dawning.

The victory of the foreign taste was decisive: and indeed we can hardly blame the Romans for turning away with contempt from the rude lays which had delighted their fathers, and giving their whole admiration to the immortal productions of Greece. The national romances, neglected by the great and the refined whose education had been finished at Rhodes or Athens, continued, it may be supposed, during some generations to delight the vulgar. While Virgil, in hexameters of exquisite modulation, described the sports of rustics, those rustics were still singing their wild Saturnian ballads.[2] It is not improbable that, at the time when Cicero lamented the irreparable loss of the poems mentioned by Cato, a search among the nooks of the Apennines, as active as the search which Sir Walter Scott made among the descendants of the mosstroopers of Liddesdale, might have brought to light many fine remains of ancient minstrelsy. No such search was made. The Latin ballads perished forever. Yet discerning critics have thought that they could still perceive in the early his-

that the Saturnian measure, though believed by the Romans from a very early period ("credidit vetustas") to be of Italian invention, was really borrowed from the Greeks. But Terentianus Maurus does not say that it was first borrowed by Nævius. Nay, the expressions used by Terentianus Maurus clearly imply the contrary: for how could the Romans have believed, from a very early period, that this measure was the indigenous production of Latium, if it was really brought over from Greece in an age of intelligence and liberal curiosity, in the age which gave birth to Ennius, Plautus, Cato the Censor, and other distinguished writers? If Bentley's assertion were correct, there could have been no more doubt at Rome about the Greek origin of the Saturnian measure than about the Greek origin of hexameters, or Sapphics.

[1] Aulus Gellius, Noctes Atticæ, i. 24. [2] See Servius, in Georg. ii. 385

tory of Rome numerous fragments of this lost poetry, as the traveller on classic ground sometimes finds, built into the heavy wall of a fort or convent, a pillar rich with acanthus leaves, or a frieze where the Amazons and Bacchanals seem to live. The theatres and temples of the Greek and the Roman were degraded into the quarries of the Turk and the Goth. Even so did the ancient Saturnian poetry become the quarry in which a crowd of orators and annalists found the materials for their prose.

It is not difficult to trace the process by which the old songs were transmuted into the form which they now wear. Funeral panegyric and chronicle appear to have been the intermediate links which connected the lost ballads with the histories now extant. From a very early period it was the usage that an oration should be pronounced over the remains of a noble Roman. The orator, as we learn from Polybius, was expected, on such an occasion, to recapitulate all the services which the ancestors of the deceased had, from the earliest time, rendered to the commonwealth. There can be little doubt that the speaker on whom this duty was imposed would make use of all the stories suited to his purpose which were to be found in the popular lays. There can be as little doubt that the family of an eminent man would preserve a copy of the speech which had been pronounced over his corpse. The compilers of the early chronicles would have recourse to these speeches; and the great historians of a later period would have recourse to the chronicles.

It may be worth while to select a particular story, and to trace its probable progress through these stages. The description of the migration of the Fabian house to Cremera is one of the finest of the many fine passages which lie thick in the earlier books of Livy. The Consul, clad in his military garb, stands in the vestibule of his house, mar-

shalling his clan, three hundred and six fighting men, all of the same proud patrician blood, all worthy to be attended by the fasces, and to command the legions. A sad and anxious retinue of friends accompanies the adventurers through the streets; but the voice of lamentation is drowned by the shouts of admiring thousands. As the procession passes the Capitol, prayers and vows are poured forth, but in vain. The devoted band, leaving Janus on the right, marches to its doom, through the Gate of Evil Luck. After achieving high deeds of valour against overwhelming numbers, all perish save one child, the stock from which the great Fabian race was destined again to spring, for the safety and glory of the commonwealth. That this fine romance, the details of which are so full of poetical truth, and so utterly destitute of all show of historical truth, came originally from some lay which had often been sung with great applause at banquets, is in the highest degree probable. Nor is it difficult to imagine a mode in which the transmission might have taken place. The celebrated Quintus Fabius Maximus, who died about twenty years before the First Punic War, and more than forty years before Ennius was born, is said to have been interred with extraordinary pomp. In the eulogy pronounced over his body all the great exploits of his ancestors were doubtless recounted and exaggerated. If there were then extant songs which gave a vivid and touching description of an event, the saddest and the most glorious in the long history of the Fabian house, nothing could be more natural than that the panegyrist should borrow from such songs their finest touches, in order to adorn his speech. A few generations later the songs would perhaps be forgotten, or remembered only by shepherds and vine-dressers. But the speech would certainly be preserved in the archives of the Fabian nobles. Fabius Pictor would be well acquainted with a

document so interesting to his personal feelings, and would insert large extracts from it in his rude chronicle. That chronicle, as we know, was the oldest to which Livy had access. Livy would at a glance distinguish the bold strokes of the forgotten poet from the dull and feeble narrative by which they were surrounded, would retouch them with a delicate and powerful pencil, and would make them immortal.

That this might happen at Rome can scarcely be doubted; for something very like this has happened in several countries, and, among others, in our own. Perhaps the theory of Perizonius cannot be better illustrated than by showing that what he supposes to have taken place in ancient times has, beyond all doubt, taken place in modern times.

"History," says Hume with the utmost gravity, "has preserved some instances of Edgar's amours, from which, as from a specimen, we may form a conjecture of the rest." He then tells very agreeably the stories of Elfleda and Elfrida, two stories which have a most suspicious air of romance, and which, indeed, greatly resemble, in their general character, some of the legends of early Rome. He cites as his authority for these two tales, the chronicle of William of Malmesbury, who lived in the time of King Stephen. The great majority of readers suppose that the device by which Elfleda was substituted for her young mistress, the artifice by which Athelwold obtained the hand of Elfrida, the detection of that artifice, the hunting party and the vengeance of the amorous king, are things about which there is no more doubt than about the execution of Anne Boleyn, or the slitting of Sir John Coventry's nose. But when we turn to William of Malmesbury, we find that Hume, in his eagerness to relate these pleasant fables, has overlooked one very important circumstance. William does indeed tell both the stories; but he gives us distinct notice

that he does not warrant their truth, and that they rest on no better authority than that of ballads.[1]

Such is the way in which these two well-known tales have been handed down. They originally appeared in a poetical form. They found their way from ballads into an old chronicle. The ballads perished; the chronicle remained. A great historian, some centuries after the ballads had been altogether forgotten, consulted the chronicle. He was struck by the lively colouring of these ancient fictions: he transferred them to his pages; and thus we find inserted, as unquestionable facts, in a narrative which is likely to last as long as the English tongue, the inventions of some minstrel whose works were probably never committed to writing, whose name is buried in oblivion, and whose dialect has become obsolete. It must, then, be admitted to be possible, or rather highly probable, that the stories of Romulus and Rmeus, and of the Horatii and Curiatii, may have had a similar origin.

Castilian literature will furnish us with another parallel case. Mariana, the classical historian of Spain, tells the story of the ill-starred marriage which the king Don Alonso brought about between the heirs of Carrion and the two daughters of the Cid. The Cid bestowed a princely dower on his sons-in-law. But the young men were base and proud, cowardly and cruel. They were tried in danger, and found wanting. They fled before the Moors, and once, when a lion broke out of his den, they ran and crouched in an unseemly hiding-place. They knew that they were despised, and took counsel how they might be avenged. They parted from their father-in-law with many signs of love, and set forth on a journey with Doña Elvira and

[1] "Infamias quas post dicam magis resperserunt cantilenæ." Edgar appears to have been most mercilessly treated in the Anglo-Saxon ballads. He was the favourite of the monks; and the monks and minstrels were at deadly feud.

Doña Sol. In a solitary place the bridegrooms seized their brides, stripped them, scourged them, and departed, leaving them for dead. But one of the house of Bivar, suspecting foul play, had followed the travellers in disguise. The ladies were brought back safe to the house of their father. Complaint was made to the king. It was adjudged by the Cortes that the dower given by the Cid should be returned, and that the heirs of Carrion together with one of their kindred should do battle against three knights of the party of the Cid. The guilty youths would have declined the combat; but all their shifts were vain. They were vanquished in the lists, and forever disgraced, while their injured wives were sought in marriage by great princes.[1]

Some Spanish writers have laboured to show, by an examination of dates and circumstances, that this story is untrue. Such confutation was surely not needed; for the narrative is on the face of it a romance. How it found its way into Mariana's history is quite clear. He acknowledges his obligations to the ancient chronicles; and had doubtless before him the "Cronica del famoso Cavallero Cid Ruy Diez Campeador," which had been printed as early as the year 1552. He little suspected that all the most striking passages in this chronicle were copied from a poem of the twelfth century, a poem of which the language and versification had long been obsolete, but which glowed with no common portion of the fire of the Iliad. Yet such was the fact. More than a century and a half after the death of Mariana, this venerable ballad, of which one imperfect copy on parchment, four hundred years old, had been preserved at Bivar, was for the first time printed. Then it was found that every interesting circumstance of the story of the heirs of Carrion was derived by the eloquent Jesuit from a song of which he had never heard, and which

[1] Mariana, lib. x. cap. 4.

was composed by a minstrel whose very name had long been forgotten.[1]

Such, or nearly such, appears to have been the process by which the lost ballad-poetry of Rome was transformed into history. To reverse that process, to transform some portions of early Roman history back into the poetry out of which they were made, is the object of this work.

In the following poems the author speaks, not in his own person, but in the persons of ancient minstrels who know only what a Roman citizen, born three or four hundred years before the Christian æra, may be supposed to have known, and who are in nowise above the passions and prejudices of their age and nation. To these imaginary poets must be ascribed some blunders which are so obvious that it is unnecessary to point them out. The real blunder would have been to represent these old poets as deeply versed in general history, and studious of chronological accuracy. To them must also be attributed the illiberal sneers at the Greeks, the furious party-spirit, the contempt for the arts of peace, the love of war for its own sake, the ungenerous exultation over the vanquished, which the reader will sometimes observe. To portray a Roman of the age of Camillus or Curius as superior to national antipathies, as mourning over the devastation and slaughter by which empire and triumphs were to be won, as looking on human suffering with the sympathy of Howard, or as treating conquered enemies with the delicacy of the Black Prince, would be to violate all dramatic propriety. The old Romans had some great virtues, fortitude, temperance, veracity, spirit to resist oppression, respect for legitimate authority, fidelity in the observing of contracts, disinterest-

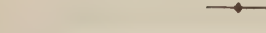
[1] See the account which Sanchez gives of the Bivar manuscript in the first volume of the *Coleccion de Poesias Castellanas anteriores al Siglo XV.* Part of the story of the lords of Carrion, in the poem of the Cid, has been translated by Mr. Frere in a manner above all praise.

edness, ardent patriotism; but Christian charity and chivalrous generosity were alike unknown to them.

It would have been obviously improper to mimic the manner of any particular age or country. Something has been borrowed, however, from our own old ballads, and more from Sir Walter Scott, the great restorer of our ballad-poetry. To the Iliad still greater obligations are due; and those obligations have been contracted with the less hesitation, because there is reason to believe that some of the old Latin minstrels really had recourse to that inexhaustible store of poetical images.

It would have been easy to swell this little volume to a very considerable bulk, by appending notes filled with quotations; but to a learned reader such notes are not necessary; for an unlearned reader they would have little interest; and the judgment passed both by the learned and by the unlearned on a work of the imagination will always depend much more on the general character and spirit of such a work than on minute details.

HORATIUS.



THERE can be little doubt that among those parts of early Roman history which had a poetical origin was the legend of Horatius Cocles. We have several versions of the story, and these versions differ from each other in points of no small importance. Polybius, there is reason to believe, heard the tale recited over the remains of some Consul or Prætor descended from the old Horatian patricians; for he introduces it as a specimen of the narratives with which the Romans were in the habit of embellishing their funeral oratory. It is remarkable that, according to him, Horatius defended the bridge alone, and perished in the waters. According to the chronicles which Livy and Dionysius followed, Horatius had two companions, swam safe to shore, and was loaded with honours and rewards.

These discrepancies are easily explained. Our own literature, indeed, will furnish an exact parallel to what may have taken place at Rome. It is highly probable that the memory of the war of Porsena was preserved by compositions much resembling the two ballads which stand first in the *Relics of Ancient English Poetry*. In both those ballads the English, commanded by the Percy, fight with the Scots, commanded by the Douglas. In one of the ballads the Douglas is killed by a nameless English archer, and the Percy by a Scottish spearman: in the other, the Percy slays the Douglas in single combat, and is himself made prisoner. In the former, Sir Hugh Montgomery is shot through the heart by a Northumbrian bowman; in the latter he is taken, and exchanged for the Percy. Yet both the ballads relate to the same event, and that an event

which probably took place within the memory of persons who were alive when both the ballads were made. One of the minstrels says:

"Old men that knowen the grounde well yenoughe
Call it the battell of Otterburn:
At Otterburn began this spurne
Upon a monnyn day.
Ther was the dougghte Doglas slean:
The Perse never went away."

The other poet sums up the event in the following lines:

"Thys fraye bygan at Otterborne
Bytwene the nyghte and the day:
Ther the Dowglas lost hys lyfe,
And the Percy was lede away."

It is by no means unlikely that there were two old Roman lays about the defence of the bridge; and that, while the story which Livy has transmitted to us was preferred by the multitude, the other, which ascribed the whole glory to Horatius alone, may have been the favourite with the Horatian house.

The following ballad is supposed to have been made about a hundred and twenty years after the war which it celebrates, and just before the taking of Rome by the Gauls. The author seems to have been an honest citizen, proud of the military glory of his country, sick of the disputes of factions, and much given to pining after good old times which had never really existed. The allusion, however, to the partial manner in which the public lands were allotted could proceed only from a plebeian; and the allusion to the fraudulent sale of spoils marks the date of the poem, and shows that the poet shared in the general discontent with which the proceedings of Camillus, after the taking of Veii, were regarded.

The penultimate syllable of the name Porsena has been shortened in spite of the authority of Niebuhr, who pronounces, without assigning any ground for his opinion, that Martial was guilty of a decided blunder in the line,

"Hanc spectare manum Porsena non potuit."

It is not easy to understand how any modern scholar

whatever his attainments may be, — and those of Niebuhr were undoubtedly immense, — can venture to pronounce that Martial did not know the quantity of a word which he must have uttered and heard uttered a hundred times before he left school. Niebuhr seems also to have forgotten that Martial has fellow-culprits to keep him in countenance. Horace has committed the same decided blunder; for he gives us, as a pure iambic line,

"Minacis aut Etrusca Porsenæ manus."

Silius Italicus has repeatedly offended in the same way, as when he says,

"Cernitur effugiens ardentem Porsena dextram:"

and again,

"Clusinum vulgus, cum, Porsena magne, jubebas."

A modern writer may be content to err in such company.

Niebuhr's supposition that each of the three defenders of the bridge was the representative of one of the three patrician tribes is both ingenious and probable, and has been adopted in the following poem.

HORATIUS.

A LAY MADE ABOUT THE YEAR OF THE CITY CCCIX.

I.

Lars Porsena of Clusium
By the Nine Gods he swore
That the great house of Tarquin
Should suffer wrong no more.
By the Nine Gods he swore it,
And named a trysting day,
And bade his messengers ride forth,
East and west and south and north,
To summon his array.

II.

East and west and south and north
The messengers ride fast,
And tower and town and cottage
Have heard the trumpet's blast.
Shame on the false Etruscan
Who lingers in his home,
When Porsena of Clusium
Is on the march for Rome.

III.

The horsemen and the footmen
Are pouring in amain
From many a stately market-place;
From many a fruitful plain;
From many a lonely hamlet,
Which, hid by beech and pine,
Like an eagle's nest, hangs on the crest
Of purple Apennine;

IV.

From lordly Volaterræ,
Where scowls the far-famed hold
Piled by the hands of giants
For godlike kings of old;
From seagirt Populonia,
Whose sentinels descry
Sardinia's snowy mountain-tops
Fringing the southern sky;

V.

From the proud mart of Pisæ,
Queen of the western waves,
Where ride Massilia's triremes
Heavy with fair-haired slaves;
From where sweet Clanis wanders
Through corn and vines and flowers;
From where Cortona lifts to heaven
Her diadem of towers.

VI.

Tall are the oaks whose acorns
Drop in dark Auser's rill;
Fat are the stags that champ the boughs
Of the Ciminian hill;
Beyond all streams Clitumnus
Is to the herdsman dear;
Best of all pools the fowler loves
The great Volsinian mere.

VII.

But now no stroke of woodman
Is heard by Auser's rill;
No hunter tracks the stag's green path
Up the Ciminian hill;
Unwatched along Clitumnus
Grazes the milk-white steer;
Unharmed the water fowl may dip
In the Volsinian mere.

VIII.

The harvests of Arretium,
This year, old men shall reap;
This year, young boys in Umbro
Shall plunge the struggling sheep;
And in the vats of Luna,
This year, the must shall foam
Round the white feet of laughing girls
Whose sires have marched to Rome.

IX.

There be thirty chosen prophets,
The wisest of the land,
Who alway by Lars Porsena
Both morn and evening stand:
Evening and morn the Thirty
Have turned the verses o'er,
Traced from the right on linen white
By mighty seers of yore.

X.

And with one voice the Thirty
Have their glad answer given:
"Go forth, go forth, Lars Porsena
Go forth, beloved of Heaven;
Go, and return in glory
To Clusium's royal dome;
And hang round Nurscia's altars
The golden shields of Rome.'

XI.

And now hath every city
Sent up her tale of men;
The foot are fourscore thousand,
The horse are thousands ten.
Before the gates of Sutrium
Is met the great array.
A proud man was Lars Porsena
Upon the trysting day.

XII.

For all the Etruscan armies
Were ranged beneath his eye,
And many a banished Roman,
And many a stout ally;
And with a mighty following
To join the muster came
The Tusculan Mamilius,
Prince of the Latian name.

XIII.

But by the yellow Tiber
Was tumult and affright:
From all the spacious champaign
To Rome men took their flight.
A mile around the city,
The throng stopped up the ways;
A fearful sight it was to see
Through two long nights and days.

XIV.

For aged folks on crutches,
And women great with child,
And mothers sobbing over babes
That clung to them and smiled,
And sick men borne in litters
High on the necks of slaves,
And troops of sun-burned husbandmen
With reaping-hooks and staves,

XV.

And droves of mules and asses
Laden with skins of wine,
And endless flocks of goats and sheep,
And endless herds of kine,
And endless trains of waggons
That creaked beneath the weight
Of corn-sacks and of household goods,
Choked every roaring gate.

XVI.

Now, from the rock Tarpeian,
Could the wan burghers spy
The line of blazing villages
Red in the midnight sky.
The Fathers of the City,
They sat all night and day,
For every hour some horseman came
With tidings of dismay.

XVII.

To eastward and to westward
Have spread the Tuscan bands;
Nor house, nor fence, nor dovecote
In Crustumerium stands.
Verbenna down to Ostia
Hath wasted all the plain;
Astur hath stormed Janiculum,
And the stout guards are slain.

XVIII.

I wis, in all the Senate,
There was no heart so bold,
But sore it ached, and fast it beat,
When that ill news was told.
Forthwith up rose the Consul,
Up rose the Fathers all;
In haste they girded up their gowns,
And hied them to the wall.

XIX.

They held a council standing
Before the River-Gate;
Short time was there, ye well may guess,
For musing or debate.
Out spake the Consul roundly:
"The bridge must straight go down;
For, since Janiculum is lost,
Naught else can save the town."

XX.

Just then a scout came flying,
All wild with haste and fear:
"To arms! to arms! Sir Consul:
Lars Porsena is here."
On the low hills to westward
The Consul fixed his eye,
And saw the swarthy storm of dust
Rise fast along the sky.

XXI.

And nearer fast and nearer
Doth the red whirlwind come;
And louder still and still more loud,
From underneath that rolling cloud,
Is heard the trumpet's war-note proud,
The trampling, and the hum.
And plainly and more plainly
Now through the gloom appears,
Far to left and far to right,
In broken gleams of dark-blue light,
The long array of helmets bright,
The long array of spears.

XXII.

And plainly and more plainly,
Above that glimmering line,
Now might ye see the banners
Of twelve fair cities shine;
But the banner of proud Clusium
Was highest of them all,
The terror of the Umbrian, —
The terror of the Gaul.

XXIII.

And plainly and more plainly
Now might the burghers know,
By port and vest, by horse and crest,
Each warlike Lucumo.

There Cilnius of Arretium
On his fleet roan was seen;
And Astur of the four-fold shield,
Girt with the brand none else may wield;
Tolumnius with the belt of gold,
And dark Verbenna from the hold
By reedy Thrasymene.

XXIV.

Fast by the royal standard,
O'erlooking all the war,
Lars Porsena of Clusium
Sat in his ivory car.
By the right wheel rode Mamilius,
Prince of the Latian name;
And by the left false Sextus,
That wrought the deed of shame.

XXV.

But when the face of Sextus
Was seen among the foes,
A yell that rent the firmament
From all the town arose.
On the house-tops was no woman
But spat towards him and hissed, —
No child but screamed out curses,
And shook its little fist.

XXVI.

But the Consul's brow was sad,
And the Consul's speech was low,
And darkly looked he at the wall,
And darkly at the foe.
"Their van will be upon us
Before the bridge goes down;
And if they once may win the bridge,
What hope to save the town?"

XXVII.

Then out spake brave Horatius,
The Captain of the Gate:
"To every man upon this earth
Death cometh soon or late.
And how can man die better
Than facing fearful odds,
For the ashes of his fathers,
And the temples of his Gods,

XXVIII.

"And for the tender mother
Who dandled him to rest,
And for the wife who nurses
His baby at her breast,
And for the holy maidens
Who feed the eternal flame,
To save them from false Sextus
That wrought the deed of shame?

XXIX.

"Hew down the bridge, Sir Consul,
With all the speed ye may;
I, with two more to help me,
Will hold the foe in play.
In yon strait path a thousand
May well be stopped by three.
Now who will stand on either hand,
And keep the bridge with me?"

XXX.

Then out spake Spurius Lartius;
A Ramnian proud was he:
"Lo, I will stand at thy right hand,
And keep the bridge with thee."
And out spake strong Herminius;
Of Titian blood was he:
"I will abide on thy left side,
And keep the bridge with thee."

XXXI.

"Horatius," quoth the Consul,
"As thou sayest, so let it be."
And straight against that great array
Forth went the dauntless Three.
For Romans in Rome's quarrel
Spared neither land nor gold,
Nor son nor wife, nor limb nor life,
In the brave days of old.

XXXII.

Then none was for a party;
Then all were for the state;
Then the great man helped the poor,
And the poor man loved the great
Then lands were fairly portioned;
Then spoils were fairly sold:
The Romans were like brothers
In the brave days of old.

XXXIII.

Now Roman is to Roman
More hateful than a foe,
And the Tribunes beard the high,
And the Fathers grind the low.
As we wax hot in faction,
In battle we wax cold:
Wherefore men fight not as they fought
In the brave days of old.

XXXIV.

Now while the Three were tightening
Their harness on their backs,
The Consul was the foremost man
To take in hand an axe:
And Fathers mixed with Commons
Seized hatchet, bar, and crow,
And smote upon the planks above,
And loosed the props below.

XXXV.

Meanwhile the Tuscan army,
Right glorious to behold,
Come flashing back the noonday light,
Rank behind rank, like surges bright
Of a broad sea of gold.
Four hundred trumpets sounded
A peal of warlike glee,
As that great host, with measured tread,
And spears advanced, and ensigns spread,
Rolled slowly towards the bridge's head,
Where stood the dauntless Three.

XXXVI.

The Three stood calm and silent,
And looked upon the foes,
And a great shout of laughter
From all the vanguard rose:
And forth three chiefs came spurring
Before that deep array;
To earth they sprang, their swords they drew,
And lifted high their shields, and flew
To win the narrow way;

XXXVII.

Aunus from green Tifernum,
Lord of the Hill of Vines;
And Seius, whose eight hundred slaves
Sicken in Ilva's mines;
And Picus, long to Clusium
Vassal in peace and war,
Who led to fight his Umbrian powers
From that grey crag where, girt with towers,
The fortress of Nequinum lowers
O'er the pale waves of Nar.

XXXVIII.

Stout Lartius hurled down Aunus
Into the stream beneath;

Herminius struck at Seius,
And clove him to the teeth:
At Picus brave Horatius
Darted one fiery thrust;
And the proud Umbrian's gilded arms
Clashed in the bloody dust.

XXXIX.

Then Ocnus of Falerii
Rushed on the Roman Three;
And Lausulus of Urgo,
The rover of the sea;
And Aruns of Volsinium,
Who slew the great wild boar, —
The great wild boar that had his den
Amidst the reeds of Cosa's fen,
And wasted fields, and slaughtered men,
Along Albinia's shore.

XL.

Herminius smote down Aruns:
Lartius laid Ocnus low:
Right to the heart of Lausulus
Horatius sent a blow.
"Lie there," he cried, "fell pirate!
No more, aghast and pale,
From Ostia's walls the crowd shall mark
The track of thy destroying bark.
No more Campania's hinds shall fly
To woods and caverns when they spy
Thy thrice accursed sail."

XLI.

But now no sound of laughter
Was heard among the foes.
A wild and wrathful clamour
From all the vanguard rose.
Six spears' lengths from the entrance
Halted that deep array,

And for a space no man came forth
To win the narrow way.

XLII.

But hark! the cry is Astur:
And lo! the ranks divide;
And the great Lord of Luna
Comes with his stately stride.
Upon his ample shoulders
Clangs loud the four-fold shield,
And in his hand he shakes the brand
Which none but he can wield.

XLIII.

He smiled on those bold Romans
A smile serene and high;
He eyed the flinching Tuscans,
And scorn was in his eye.
Quoth he, "The she-wolf's litter
Stand savagely at bay:
But will ye dare to follow,
If Astur clears the way?"

XLIV.

Then, whirling up his broadsword
With both hands to the height,
He rushed against Horatius,
And smote with all his might.
With shield and blade Horatius
Right deftly turned the blow.
The blow, though turned, came yet too nigh;
It missed his helm, but gashed his thigh:
The Tuscans raised a joyful cry
To see the red blood flow.

XLV.

He reeled, and on Herminius
He leaned one breathing-space;
Then, like a wild cat mad with wounds,
Sprang right at Astur's face.

Through teeth, and skull, and helmet
So fierce a thrust he sped,
The good sword stood a hand-breadth out
Behind the Tuscan's head.

XLVI.

And the great Lord of Luna
Fell at that deadly stroke,
As falls on Mount Alvernus
A thunder smitten oak.
Far o'er the crashing forest
The giant arms lie spread;
And the pale augurs, muttering low,
Gaze on the blasted head.

XLVII.

On Astur's throat Horatius
Right firmly pressed his heel,
And thrice and four times tugged amain,
Ere he wrenched out the steel.
"And see," he cried, "the welcome,
Fair guests, that waits you here!
What noble Lucumo comes next
To taste our Roman cheer?"

XLVIII.

But at his haughty challenge
A sullen murmur ran,
Mingled of wrath, and shame, and dread,
Along that glittering van.
There lacked not men of prowess,
Nor men of lordly race;
For all Etruria's noblest
Were round the fatal place.

XLIX.

But all Etruria's noblest
Felt their hearts sink to see
On the earth the bloody corpses,
In the path the dauntless Three:

And, from the ghastly entrance
Where those bold Romans stood,
All shrank, like boys who unaware,
Ranging the woods to start a hare,
Come to the mouth of the dark lair
Where, growling low, a fierce old bear
Lies amidst bones and blood.

L.

Was none who would be foremost
To lead such dire attack:
But those behind cried "Forward!"
And those before cried "Back!"
And backward now and forward
Wavers the deep array;
And on the tossing sea of steel,
To and fro the standards reel;
And the victorious trumpet-peal
Dies fitfully away.

LI.

Yet one man for one moment
Strode out before the crowd;
Well known was he to all the Three,
And they gave him greeting loud.
"Now welcome, welcome, Sextus!
Now welcome to thy home!
Why dost thou stay, and turn away?
Here lies the road to Rome."

LII.

Thrice looked he at the city;
Thrice looked he at the dead;
And thrice came on in fury,
And thrice turned back in dread:
And, white with fear and hatred,
Scowled at the narrow way
Where, wallowing in a pool of blood,
The bravest Tuscans lay.

LIII.

But meanwhile axe and lever
Have manfully been plied;
And now the bridge hangs tottering
Above the boiling tide.
"Come back, come back, Horatius!"
Loud cried the Fathers all.
"Back, Lartius! back, Herminius!
Back, ere the ruin fall!"

LIV.

Back darted Spurius Lartius;
Herminius darted back:
And, as they passed, beneath their feet
They felt the timbers crack.
But when they turned their faces,
And on the farther shore
Saw brave Horatius stand alone,
They would have crossed once more.

LV.

But with a crash like thunder
Fell every loosened beam,
And, like a dam, the mighty wreck
Lay right athwart the stream:
And a long shout of triumph
Rose from the walls of Rome,
As to the highest turret-tops
Was splashed the yellow foam.

LVI.

And, like a horse unbroken
When first he feels the rein,
The furious river struggled hard,
And tossed his tawny mane,
And burst the curb and bounded,
Rejoicing to be free,
And whirling down, in fierce career,
Battlement, and plank, and pier,
Rushed headlong to the sea.

LVII.

Alone stood brave Horatius,
But constant still in mind;
Thrice thirty thousand foes before,
And the broad flood behind.
"Down with him!" cried false Sextus,
With a smile on his pale face.
"Now yield thee," cried Lars Porsena,
"Now yield thee to our grace."

LVIII.

Round turned he, as not deigning
Those craven ranks to see;
Nought spake he to Lars Porsena,
To Sextus nought spake he;
But he saw on Palatinus
The white porch of his home;
And he spake to the noble river
That rolls by the towers of Rome.

LIX.

"Oh, Tiber! father Tiber!
To whom the Romans pray,
A Roman's life, a Roman's arms,
Take thou in charge this day!"
So he spake, and speaking sheathed
The good sword by his side,
And with his harness on his back,
Plunged headlong in the tide.

LX.

No sound of joy or sorrow
Was heard from either bank;
But friends and foes in dumb surprise,
With parted lips and straining eyes,
Stood gazing where he sank;
And when above the surges
They saw his crest appear,
All Rome sent forth a rapturous cry,

And even the ranks of Tuscany
Could scarce forbear to cheer.

LXI.

But fiercely ran the current,
Swollen high by months of rain:
And fast his blood was flowing,
And he was sore in pain,
And heavy with his armour,
And spent with changing blows:
And oft they thought him sinking,
But still again he rose.

LXII.

Never, I ween, did swimmer,
In such an evil case,
Struggle through such a raging flood
Safe to the landing place:
But his limbs were borne up bravely
By the brave heart within,
And our good father Tiber
Bare bravely up his chin.[1]

LXIII.

"Curse on him!" quoth false Sextus;
"Will not the villain drown?
But for this stay, ere close of day
We should have sacked the town!"
"Heaven help him!" quoth Lars Porsena,
"And bring him safe to shore;
For such a gallant feat of arms
Was never seen before."

[1] "Our ladye bare upp her chinne."
Ballad of Childe Waters.

"Never heavier man and horse
Stemmed a midnight torrent's force;
* * * * * *
Yet, through good heart and our Lady's grace,
At length he gained the landing place."
Lay of the Last Minstrel, I.

LXIV.

And now he feels the bottom ;
Now on dry earth he stands;
Now round him throng the Fathers,
To press his gory hands ;
And now, with shouts and clapping,
And noise of weeping loud,
He enters through the River-Gate,
Borne by the joyous crowd.

LXV.

They gave him of the corn-land,
That was of public right,
As much as two strong oxen
Could plough from morn till night ;
And they made a molten image,
And set it up on high,
And there it stands unto this day
To witness if I lie.

LXVI.

It stands in the Comitium,
Plain for all folk to see ;
Horatius in his harness,
Halting upon one knee :
And underneath is written,
In letters all of gold,
How valiantly he kept the bridge
In the brave days of old.

LXVII.

And still his name sounds stirring
Unto the men of Rome,
As the trumpet-blast that cries to them
To charge the Volscian home ;
And wives still pray to Juno
For boys with hearts as bold
As his who kept the bridge so well
In the brave days of old.

LXVIII.

And in the nights of winter,
When the cold north winds blow,
And the long howling of the wolves
Is heard amidst the snow;
When round the lonely cottage
Roars loud the tempest's din,
And the good logs of Algidus
Roar louder yet within;

LXIX.

When the oldest cask is opened,
And the largest lamp is lit;
When the chestnuts glow in the embers,
And the kid turns on the spit;
When young and old in circle
Around the firebrands close;
When the girls are weaving baskets,
And the lads are shaping bows;

LXX.

When the goodman mends his armour,
And trims his helmet's plume;
When the goodwife's shuttle merrily
Goes flashing through the loom;
With weeping and with laughter
Still is the story told,
How well Horatius kept the bridge
In the brave days of old.

THE BATTLE OF THE LAKE REGILLUS.

—•—

THE following poem is supposed to have been produced about ninety years after the lay of Horatius. Some persons mentioned in the lay of Horatius make their appearance again, and some appellations and epithets used in the lay of Horatius have been purposely repeated: for, in an age of ballad-poetry, it scarcely ever fails to happen, that certain phrases come to be appropriated to certain men and things, and are regularly applied to those men and things by every minstrel. Thus we find, both in the Homeric poems and in Hesiod, *βίη Ἡρακληείη, περικλύτος Ἀμφιγυήεις, διάκτορος Ἀργειφόντης, ἑπτάπυλος Θήβη, Ἑλένης ἕνεκ' ἠϋκόμοιο.* Thus, too, in our own national songs, Douglas is almost always the doughty Douglas: England is merry England: all the gold is red; and all the ladies are gay.

The principal distinction between the lay of Horatius and the lay of the Lake Regillus is that the former is meant to be purely Roman, while the latter, though national in its general spirit, has a slight tincture of Greek learning and of Greek superstition. The story of the Tarquins, as it has come down to us, appears to have been compiled from the works of several popular poets; and one, at least, of those poets appears to have visited the Greek colonies in Italy, if not Greece itself, and to have had some acquaintance with the works of Homer and Herodotus. Many of the most striking adventures of the house of Tarquin, before Lucretia makes her appearance, have a Greek character. The Tarquins themselves are represented as Corinthian nobles of the great house of the Bacchiadæ, driven from their country by the tyranny of that Cypselus, the tale of

whose strange escape Herodotus has related with incomparable simplicity and liveliness.[1] Livy and Dionysius tell us that, when Tarquin the Proud was asked what was the best mode of governing a conquered city, he replied only by beating down with his staff all the tallest poppies in his garden.[2] This is exactly what Herodotus, in the passage to which reference has already been made, relates of the counsel given to Periander, the son of Cypselus. The stratagem by which the town of Gabii is brought under the power of the Tarquins is, again, obviously copied from Herodotus.[3] The embassy of the young Tarquins to the oracle at Delphi is just such a story as would be told by a poet whose head was full of the Greek mythology; and the ambiguous answer returned by Apollo is in the exact style of the prophecies which, according to Herodotus, lured Crœsus to destruction. Then the character of the narrative changes. From the first mention of Lucretia to the retreat of Porsena nothing seems to be borrowed from foreign sources. The villany of Sextus, the suicide of his victim, the revolution, the death of the sons of Brutus, the defence of the bridge, Mucius burning his hand,[4] Cœlia swimming through Tiber, seem to be all strictly Roman. But when we have done with the Tuscan war, and enter upon the war with the Latines, we are again struck by the Greek air of the story. The Battle of the Lake Regillus is in all respects a Homeric battle, except that the combatants ride astride on their horses, instead of driving chariots. The mass of fighting men is hardly mentioned. The leaders single each other out, and engage hand to hand. The great object of the warriors on both sides is, as in the Iliad, to obtain possession of the spoils and bodies of the slain; and several circumstances are related which forcibly remind us of the great slaughter round the corpses of Sarpedon and Patroclus.

[1] Herodotus, v. 92. Livy, i. 34. Dionysius, iii. 46.

[2] Livy, i. 54. Dionysius, iv. 56.

[3] Herodotus, iii. 154. Livy, i. 53.

[4] M. de Pouilly attempted, a hundred and twenty years ago, to prove that the story of Mucius was of Greek origin; but he was signally confuted by the Abbé Sallier. See the *Mémoires de l'Académie des Inscriptions*, vi 27. 66.

But there is one circumstance which deserves especial notice. Both the war of Troy and the war of Regillus were caused by the licentious passions of young princes, who were therefore peculiarly bound not to be sparing of their own persons in the day of battle. Now the conduct of Sextus at Regillus, as described by Livy, so exactly resembles that of Paris, as described at the beginning of the third book of the Iliad, that it is difficult to believe the resemblance accidental. Paris appears before the Trojan ranks, defying the bravest Greek to encounter him.

> Τρωσὶν μὲν προμάχιζεν Ἀλέξανδρος θεοειδὴς,
> . . . . Ἀργειων προκαλιζετο πάντας ἀρίστους,
> ἀντίβιον μαχέσασθαι ἐν αἰνῇ δηϊοτῆτι.

Livy introduces Sextus in a similar manner: "Ferocem juvenem Tarquinium, ostentantem se in prima exsulum acie." Menelaus rushes to meet Paris. A Roman noble, eager for vengeance, spurs his horse towards Sextus. Both the guilty princes are instantly terror-stricken:

> Τὸν δ' ὡς οὖν ἐνόησεν Ἀλέξανδρος θεοειδὴς
> ἐν προμάχοισι φανέντα, κατεπλήγη φίλον ἦτορ·
> ἂψ δ' ἑτάρων εἰς ἔθνος ἐχάζετο κῆρ' ἀλεείνων.

"Tarquinius," says Livy, "retro in agmen suorum infenso cessit hosti." If this be a fortuitous coincidence, it is one of the most extraordinary in literature.

In the following poem, therefore, images and incidents have been borrowed, not merely without scruple, but on principle, from the incomparable battle-pieces of Homer.

The popular belief at Rome, from an early period, seems to have been that the event of the great day of Regillus was decided by supernatural agency. Castor and Pollux, it was said, had fought, armed and mounted, at the head of the legions of the commonwealth, and had afterwards carried the news of the victory with incredible speed to the city. The well in the Forum at which they had alighted was pointed out. Near the well rose their ancient temple. A great festival was kept to their honour on the Ides of Quintilis, supposed to be the anniversary of the battle; and on that day sumptuous sacrifices were offered to them at

the public charge. One spot on the margin of Lake Regillus was regarded during many ages with superstitious awe. A mark, resembling in shape a horse's hoof, was discernible in the volcanic rock; and this mark was believed to have been made by one of the celestial chargers.

How the legend originated cannot now be ascertained: but we may easily imagine several ways in which it might have originated; nor is it at all necessary to suppose, with Julius Frontinus, that two young men were dressed up by the Dictator to personate the sons of Leda. It is probable that Livy is correct when he says that the Roman general, in the hour of peril, vowed a temple to Castor. If so, nothing could be more natural than that the multitude should ascribe the victory to the favour of the Twin Gods. When such was the prevailing sentiment, any man who chose to declare that, in the midst of the confusion and slaughter, he had seen two godlike forms on white horses scattering the Latines, would find ready credence. We know, indeed, that, in modern times, a very similar story actually found credence among a people much more civilised than the Romans of the fifth century before Christ. A chaplain of Cortes, writing about thirty years after the conquest of Mexico, in an age of printing presses, libraries, universities, scholars, logicians, jurists, and statesmen, had the face to assert that, in one engagement against the Indians, Saint James had appeared on a grey horse at the head of the Castilian adventurers. Many of those adventurers were living when this lie was printed. One of them, honest Bernal Diaz, wrote an account of the expedition. He had the evidence of his own senses against the legend; but he seems to have distrusted even the evidence of his own senses. He says that he was in the battle, and that he saw a grey horse with a man on his back, but that the man was, to his thinking, Francesco de Morla, and not the ever-blessed apostle Saint James. "Nevertheless," Bernal adds, "it may be that the person on the grey horse was the glorious apostle Saint James, and that I, sinner that I am, was unworthy to see him." The Romans of the age of Cincinnatus were probably quite as credulous as the Spanish sub-

jects of Charles the Fifth. It is therefore conceivable that the appearance of Castor and Pollux may have become an article of faith before the generation which had fought at Regillus had passed away. Nor could any thing be more natural than that the poets of the next age should embellish this story, and make the celestial horsemen bear the tidings of victory to Rome.

Many years after the temple of the Twin Gods had been built in the Forum, an important addition was made to the ceremonial by which the state annually testified its gratitude for their protection. Quintus Fabius and Publius Decius were elected Censors at a momentous crisis. It had become absolutely necessary that the classification of the citizens should be revised. On that classification depended the distribution of political power. Party-spirit ran high: and the republic seemed to be in danger of falling under the dominion either of a narrow oligarchy or of an ignorant and headstrong rabble. Under such circumstances, the most illustrious patrician and the most illustrious plebeian of the age were entrusted with the office of arbitrating between the angry factions; and they performed their arduous task to the satisfaction of all honest and reasonable men.

One of their reforms was a remodelling of the equestrian order; and, having effected this reform, they determined to give to their work a sanction derived from religion. In the chivalrous societies of modern times, societies which have much more than may at first sight appear in common with the equestrian order of Rome, it has been usual to invoke the special protection of some Saint, and to observe his day with peculiar solemnity. Thus the Companions of the Garter wear the image of Saint George depending from their collars, and meet, on great occasions, in Saint George's Chapel. Thus, when Lewis the Fourteenth instituted a new order of chivalry for the rewarding of military merit, he commended it to the favour of his own glorified ancestor and patron, and decreed that all the members of the fraternity should meet at the royal palace on the feast of Saint Lewis, should attend the king to chapel, should hear mass, and should subsequently hold their great annual assembly.

There is a considerable resemblance between this rule of the order of Saint Lewis and the rule which Fabius and Decius made respecting the Roman knights. It was ordained that a grand muster and inspection of the equestrian body should be part of the ceremonial performed, on the anniversary of the battle of Regillus, in honour of Castor and Pollux, the two equestrian Gods. All the knights, clad in purple and crowned with olive, were to meet at a temple of Mars in the suburbs. Thence they were to ride in state to the Forum, where the temple of the Twins stood. This pageant was, during several centuries, considered as one of the most splendid sights of Rome. In the time of Dionysius the cavalcade sometimes consisted of five thousand horsemen, all persons of fair repute and easy fortune.[1]

There can be no doubt that the Censors who instituted this august ceremony acted in concert with the Pontiffs to whom, by the constitution of Rome, the superintendence of the public worship belonged; and it is probable that those high religious functionaries were, as usual, fortunate enough to find in their books or traditions some warrant for the innovation.

The following poem is supposed to have been made for this great occasion. Songs, we know, were chanted at the religious festivals of Rome from an early period, indeed from so early a period, that some of the sacred verses were popularly ascribed to Numa, and were utterly unintelligible in the age of Augustus. In the Second Punic War a great feast was held in honour of Juno, and a song was sung in her praise. This song was extant when Livy wrote; and, though exceedingly rugged and uncouth, seemed to him not wholly destitute of merit.[2] A song, as we learn from Horace,[3] was part of the established ritual at the great Secular Jubilee. It is therefore likely that the Censors and Pontiffs, when they had resolved to add a grand procession

[1] See Livy, ix. 46. Val. Max. ii. 2. Aurel. Vict. De Viris Illustribus, 32. Dionysius, vi. 13. Plin. Hist. Nat. xv. 5. See also the singularly ingenious chapter in Niebuhr's posthumous volume, *Die Censur des Q. Fabius und P. Decius.*

[2] Livy, xxvii. 37.

[3] Hor. Carmen Seculare.

of knights to the other solemnities annually performed on the Ides of Quintilis, would call in the aid of a poet. Such a poet would naturally take for his subject the battle of Regillus, the appearance of the Twin Gods, and the institution of their festival. He would find abundant materials in the ballads of his predecessors; and he would make free use of the scanty stock of Greek learning which he had himself acquired. He would probably introduce some wise and holy Pontiff enjoining the magnificent ceremonial which, after a long interval, had at length been adopted. If the poem succeeded, many persons would commit it to memory. Parts of it would be sung to the pipe at banquets. It would be peculiarly interesting to the great Posthumian House, which numbered among its many images that of the Dictator Aulus, the hero of Regillus. The orator who, in the following generation, pronounced the funeral panegyric over the remains of Lucius Posthumius Megellus, thrice Consul, would borrow largely from the lay; and thus some passages, much disfigured, would probably find their way into the chronicles which were afterwards in the hands of Dionysius and Livy.

Antiquaries differ widely as to the situation of the field of battle. The opinion of those who suppose that the armies met near Cornufelle, between Frascati and the Monte Porzio, is at least plausible, and has been followed in the poem.

As to the details of the battle, it has not been thought desirable to adhere minutely to the accounts which have come down to us. Those accounts, indeed, differ widely from each other, and, in all probability, differ as widely from the ancient poem from which they were originally derived.

It is unnecessary to point out the obvious imitations of the Iliad, which have been purposely introduced.

THE BATTLE OF THE LAKE REGILLUS,

A LAY SUNG AT THE FEAST OF CASTOR AND POLLUX ON THE IDES OF QUINTILIS, IN THE YEAR OF THE CITY CCCCLI.

I.

Ho, trumpets, sound a war-note!
Ho, lictors, clear the way!
The Knights will ride, in all their pride,
Along the streets to-day.
To-day the doors and windows
Are hung with garlands all,
From Castor in the Forum,
To Mars without the wall.
Each Knight is robed in purple,
With olive each is crowned;
A gallant war-horse under each
Paws haughtily the ground.
While flows the Yellow River,
While stands the Sacred Hill,
The proud Ides of Quintilis
Shall have such honour still.
Gay are the Martian Kalends:
December's Nones are gay:
But the proud Ides, when the squadron rides,
Shall be Rome's whitest day.

II.

Unto the Great Twin Brethren
We keep this solemn feast.
Swift, swift, the Great Twin Brethren
Came spurring from the east.

They came o'er wild Parthenius
Tossing in waves of pine,
O'er Cirrha's dome, o'er Adria's foam,
O'er purple Apennine,
From where with flutes and dances
Their ancient mansion rings,
In lordly Lacedæmon,
The City of two kings,
To where, by Lake Regillus,
Under the Porcian height,
All in the lands of Tusculum,
Was fought the glorious fight.

III.

Now on the place of slaughter
Are cots and sheepfolds seen,
And rows of vines, and fields of wheat,
And apple-orchards green:
The swine crush the big acorns
That fall from Corne's oaks.
Upon the turf by the Fair Fount
The reaper's pottage smokes.
The fisher baits his angle;
The hunter twangs his bow;
Little they think on those strong limbs
That moulder deep below.
Little they think how sternly
That day the trumpets pealed;
How in the slippery swamp of blood
Warrior and war-horse reeled;
How wolves came with fierce gallop,
And crows on eager wings,
To tear the flesh of captains,
And peck the eyes of kings;
How thick the dead lay scattered
Under the Porcian height;
How through the gates of Tusculum
Raved the wild stream of flight;
And how the Lake Regillus

Bubbled with crimson foam,
What time the Thirty Cities
Came forth to war with Rome.

IV.

But, Roman, when thou standest
Upon that holy ground,
Look thou with heed on the dark rock
That girds the dark lake round.
So shalt thou see a hoof-mark
Stamped deep into the flint:
It was no hoof of mortal steed
That made so strange a dint:
There to the Great Twin Brethren
Vow thou thy vows, and pray
That they, in tempest and in fight,
Will keep thy head alway.

V.

Since last the Great Twin Brethren
Of mortal eyes were seen,
Have years gone by an hundred
And fourscore and thirteen.
That summer a Virginius
Was Consul first in place;
The second was stout Aulus,
Of the Posthumian race.
The Herald of the Latines
From Gabii came in state:
The Herald of the Latines
Passed through Rome's Eastern Gate:
The Herald of the Latines
Did in our Forum stand;
And there he did his office,
A sceptre in his hand.

VI.

"Hear, Senators and people
Of the good town of Rome.

The Thirty Cities charge you
To bring the Tarquins home:
And if ye still be stubborn,
To work the Tarquins wrong,
The Thirty Cities warn you,
Look that your walls be strong."

VII.

Then spake the Consul Aulus,
He spake a bitter jest:
"Once the jays sent a message
Unto the eagle's nest:—
Now yield thou up thy eyrie
Unto the carrion-kite,
Or come forth valiantly, and face
The jays in deadly fight.
Forth looked in wrath the eagle;
And carrion-kite and jay,
Soon as they saw his beak and claw,
Fled screaming far away."

VIII.

The Herald of the Latines
Hath hied him back in state:
The Fathers of the City
Are met in high debate.
Then spake the elder Consul,
An ancient man and wise:
"Now hearken, Conscript Fathers,
To that which I advise.
In seasons of great peril
'T is good that one bear sway;
Then choose we a Dictator,
Whom all men shall obey.
Camerium knows how deeply
The sword of Aulus bites,
And all our city calls him
The man of seventy fights.
Then let him be Dictator

For six months and no more,
And have a Master of the Knights,
And axes twenty-four."

IX.

So Aulus was Dictator,
The man of seventy fights;
He made Æbutius Elva
His Master of the Knights.
On the third morn thereafter,
At dawning of the day,
Did Aulus and Æbutius
Set forth with their array.
Sempronius Atratinus
Was left in charge at home
With boys, and with grey-headed men,
To keep the walls of Rome.
Hard by the Lake Regillus
Our camp was pitched at night:
Eastward a mile the Latines lay,
Under the Porcian height.
Far over hill and valley
Their mighty host was spread;
And with their thousand watch-fires
The midnight sky was red.

X.

Up rose the golden morning
Over the Porcian height,
The proud Ides of Quintilis
Marked evermore with white.
Not without secret trouble
Our bravest saw the foes;
For girt by threescore thousand spears,
The thirty standards rose.
From every warlike city
That boasts the Latian name,
Foredoomed to dogs and vultures,
That gallant army came;

From Setia's purple vineyards,
From Norba's ancient wall,
From the white streets of Tusculum,
The proudest town of all;
From where the Witch's Fortress
O'erhangs the dark-blue seas;
From the still glassy lake that sleeps
Beneath Aricia's trees —
Those trees in whose dim shadow
The ghastly priest doth reign,
The priest who slew the slayer,
And shall himself be slain;
From the drear banks of Ufens,
Where flights of marsh-fowl play,
And buffaloes lie wallowing
Through the hot summer's day;
From the gigantic watch-towers,
No work of earthly men,
Whence Cora's sentinels o'erlook
The never-ending fen;
From the Laurentian jungle,
The wild hog's reedy home;
From the green steeps whence Anio leaps
In floods of snow-white foam.

XI.

Aricia, Cora, Norba,
Velitræ, with the might
Of Setia and of Tusculum,
Were marshalled on the right:
The leader was Mamilius,
Prince of the Latian name;
Upon his head a helmet
Of red gold shone like flame:
High on a gallant charger
Of dark-grey hue he rode;
Over his gilded armour
A vest of purple flowed,
Woven in the land of sunrise

By Syria's dark-browed daughters,
And by the sails of Carthage brought
Far o'er the southern waters.

XII.

Lavinium and Laurentum
Had on the left their post,
With all the banners of the marsh,
And banners of the coast.
Their leader was false Sextus,
That wrought the deed of shame:
With restless pace and haggard face
To his last field he came.
Men said he saw strange visions
Which none beside might see;
And that strange sounds were in his ears
Which none might hear but he.
A woman fair and stately,
But pale as are the dead,
Oft through the watches of the night
Sat spinning by his bed.
And as she plied the distaff,
In a sweet voice and low,
She sang of great old houses,
And fights fought long ago.
So spun she, and so sang she,
Until the east was grey.
Then pointed to her bleeding breast,
And shrieked, and fled away.

XIII.

But in the centre thickest
Were ranged the shields of foes,
And from the centre loudest
The cry of battle rose.
There Tibur marched and Pedum
Beneath proud Tarquin's rule,
And Ferentinum of the rock,
And Gabii of the pool.

There rode the Volscian succours:
There, in a dark stern ring,
The Roman exiles gathered close
Around the ancient king.
Though white as Mount Soracte,
When winter nights are long,
His beard flowed down o'er mail and belt,
His heart and hand were strong:
Under his hoary eyebrows
Still flashed forth quenchless rage:
And, if the lance shook in his gripe,
'T was more with hate than age.
Close at his side was Titus
On an Apulian steed,
Titus, the youngest Tarquin,
Too good for such a breed.

XIV.

Now on each side the leaders
Gave signal for the charge;
And on each side the footmen
Strode on with lance and targe;
And on each side the horsemen
Struck their spurs deep in gore;
And front to front the armies
Met with a mighty roar:
And under that great battle
The earth with blood was red;
And, like the Pomptine fog at morn,
The dust hung overhead;
And louder still and louder
Rose from the darkened field
The braying of the war-horns,
The clang of sword and shield,
The rush of squadrons sweeping
Like whirlwinds o'er the plain,
The shouting of the slayers,
And screeching of the slain.

XV.

False Sextus rode out foremost,
His look was high and bold;
His corslet was of bison's hide,
Plated with steel and gold.
As glares the famished eagle
From the Digentian rock
On a choice lamb that bounds alone
Before Bandusia's flock,
Herminius glared on Sextus,
And came with eagle speed,
Herminius on black Auster,
Brave champion on brave steed;
In his right hand the broadsword
That kept the bridge so well,
And on his helm the crown he won
When proud Fidenæ fell.
Woe to the maid whose lover
Shall cross his path to-day!
False Sextus saw, and trembled,
And turned, and fled away.
As turns, as flies, the woodman
In the Calabrian brake,
When through the reeds gleams the round eye
Of that fell speckled snake;
So turned, so fled, false Sextus,
And hid him in the rear,
Behind the dark Lavinian ranks,
Bristling with crest and spear.

XVI.

But far to north Æbutius,
The Master of the Knights,
Gave Tubero of Norba
To feed the Porcian kites.
Next under those red horse-hoofs
Flaccus of Setia lay;
Better had he been pruning
Among his elms that day.

Mamilius saw the slaughter,
And tossed his golden crest,
And towards the Master of the Knights
Through the thick battle pressed.
Æbutius smote Mamilius
So fiercely on the shield
That the great lord of Tusculum
Wellnigh rolled on the field.
Mamilius smote Æbutius,
With a good aim and true,
Just where the neck and shoulder join,
And pierced him through and through;
And brave Æbutius Elva
Fell swooning to the ground:
But a thick wall of bucklers
Encompassed him around.
His clients from the battle
Bare him some little space,
And filled a helm from the dark lake,
And bathed his brow and face;
And when at last he opened
His swimming eyes to light,
Men say, the earliest words he spake
Was, "Friends, how goes the fight?"

XVII.

But meanwhile in the centre
Great deeds of arms were wrought;
There Aulus the Dictator
And there Valerius fought.
Aulus with his good broadsword
A bloody passage cleared
To where, amidst the thickest foes,
He saw the long white beard.
Flat lighted that good broadsword
Upon proud Tarquin's head.
He dropped the lance: he dropped the reins
He fell as fall the dead.
Down Aulus springs to slay him,

With eyes like coals of fire;
But faster Titus hath sprung down,
And hath bestrode his sire.
Latian captains, Roman knights,
Fast down to earth they spring,
And hand to hand they fight on foot
Around the ancient king.
First Titus gave tall Cæso
A death wound in the face;
Tall Cæso was the bravest man
Of the brave Fabian race:
Aulus slew Rex of Gabii,
The priest of Juno's shrine:
Valerius smote down Julius,
Of Rome's great Julian line;
Julius, who left his mansion,
High on the Velian hill,
And through all turns of weal and woe
Followed proud Tarquin still.
Now right across proud Tarquin
A corpse was Julius laid;
And Titus groaned with rage and grief,
And at Valerius made.
Valerius struck at Titus,
And lopped off half his crest;
But Titus stabbed Valerius
A span deep in the breast.
Like a mast snapped by the tempest,
Valerius reeled and fell.
Ah! woe is me for the good house
That loves the people well!
Then shouted loud the Latines;
And with one rush they bore
The struggling Romans backward
Three lances' length and more:
And up they took proud Tarquin,
And laid him on a shield,
And four strong yeomen bare him,
Still senseless, from the field.

XVIII.

But fiercer grew the fighting
Around Valerius dead;
For Titus dragged him by the foot,
And Aulus by the head.
"On, Latines, on!" quoth Titus,
"See how the rebels fly!"
"Romans, stand firm!" quoth Aulus,
"And win this fight or die!
They must not give Valerius
To raven and to kite;
For aye Valerius loathed the wrong,
And aye upheld the right:
And for your wives and babies
In the front rank he fell.
Now play the men for the good house
That loves the people well!"

XIX.

Then tenfold round the body
The roar of battle rose,
Like the roar of a burning forest,
When a strong north wind blows.
Now backward, and now forward,
Rocked furiously the fray,
Till none could see Valerius,
And none wist where he lay.
For shivered arms and ensigns
Were heaped there in a mound,
And corpses stiff, and dying men
That writhed and gnawed the ground;
And wounded horses kicking,
And snorting purple foam:
Right well did such a couch befit
A Consular of Rome.

XX.

But north looked the Dictator;
North looked he long and hard;

And spake to Caius Cossus,
The Captain of his Guard;
"Caius, of all the Romans
Thou hast the keenest sight,
Say, what through yonder storm of dust
Comes from the Latian right?"

XXI.

Then answered Caius Cossus:
"I see an evil sight;
The banner of proud Tusculum
Comes from the Latian right;
I see the plumed horsemen;
And far before the rest
I see the dark-grey charger,
I see the purple vest;
I see the golden helmet
That shines far off like flame;
So ever rides Mamilius,
Prince of the Latian name."

XXII.

"Now hearken, Caius Cossus:
Spring on thy horse's back;
Ride as the wolves of Apennine
Were all upon thy track;
Haste to our southward battle:
And never draw thy rein
Until thou find Herminius,
And bid him come amain."

XXIII.

So Aulus spake, and turned him
Again to that fierce strife;
And Caius Cossus mounted,
And rode for death and life.
Loud clanged beneath his horse-hoofs
The helmets of the dead,
And many a curdling pool of blood

Splashed him from heel to head.
So came he far to southward,
Where fought the Roman host,
Against the banners of the marsh
And banners of the coast.
Like corn before the sickle
The stout Lavinians fell,
Beneath the edge of the true sword
That kept the bridge so well.

XXIV.

"Herminius! Aulus greets thee;
He bids thee come with speed,
To help our central battle;
For sore is there our need.
There wars the youngest Tarquin,
And there the Crest of Flame,
The Tusculan Mamilius,
Prince of the Latian name.
Valerius hath fallen fighting
In front of our array;
And Aulus of the seventy fields
Alone upholds the day."

XXV.

Herminius beat his bosom:
But never a word he spake.
He clapped his hand on Auster's mane:
He gave the reins a shake,
Away, away, went Auster,
Like an arrow from the bow:
Black Auster was the fleetest steed
From Aufidus to Po.

XXVI.

Right glad were all the Romans
Who, in that hour of dread,
Against great odds bare up the war
Around Valerius dead,

When from the south the cheering
Rose with a mighty swell;
"Herminius comes, Herminius,
Who kept the bridge so well!"

XXVII.

Mamilius spied Herminius,
And dashed across the way.
"Herminius! I have sought thee
Through many a bloody day.
One of us two, Herminius,
Shall never more go home.
I will lay on for Tusculum,
And lay thou on for Rome!"

XXVIII.

All round them paused the battle,
While met in mortal fray
The Roman and the Tusculan,
The horses black and grey.
Herminius smote Mamilius
Through breast-plate and through breast
And fast flowed out the purple blood
Over the purple vest.
Mamilius smote Herminius
Through head-piece and through head;
And side by side those chiefs of pride
Together fell down dead.
Down fell they dead together
In a great lake of gore;
And still stood all who saw them fall
While men might count a score.

XXIX.

Fast, fast, with heels wild spurning,
The dark-grey charger fled:
He burst through ranks of fighting men;
He sprang o'er heaps of dead.
His bridle far out-streaming,

His flanks all blood and foam,
He sought the southern mountains,
The mountains of his home.
The pass was steep and rugged,
The wolves they howled and whined;
But he ran like a whirlwind up the pass,
And he left the wolves behind.
Through many a startled hamlet
Thundered his flying feet;
He rushed through the gate of Tusculum,
He rushed up the long white street;
He rushed by tower and temple,
And paused not from his race
Till he stood before his master's door
In the stately market-place.
And straightway round him gathered
A pale and trembling crowd,
And when they knew him, cries of rage
Brake forth, and wailing loud:
And women rent their tresses
For their great prince's fall;
And old men girt on their old swords,
And went to man the wall.

XXX.

But, like a graven image,
Black Auster kept his place,
And ever wistfully he looked
Into his master's face.
The raven-mane that daily,
With pats and fond caresses,
The young Herminia washed and combed,
And twined in even tresses,
And decked with coloured ribands
From her own gay attire,
Hung sadly o'er her father's corpse
In carnage and in mire.
Forth with a shout sprang Titus,
And seized black Auster's rein.

Then Aulus sware a fearful oath,
And ran at him amain.
"The furies of thy brother
With me and mine abide,
If one of your accursed house
Upon black Auster ride!"
As on an Alpine watch-tower
From heaven comes down the flame,
Full on the neck of Titus
The blade of Aulus came:
And out the red blood spouted,
In a wide arch and tall,
As spouts a fountain in the court
Of some rich Capuan's hall.
The knees of all the Latines
Were loosened with dismay,
When dead, on dead Herminius,
The bravest Tarquin lay.

XXXI.

And Aulus the Dictator
Stroked Auster's raven mane,
With heed he looked unto the girths,
With heed unto the rein.
"Now bear me well, black Auster,
Into yon thick array;
And thou and I will have revenge
For thy good lord this day."

XXXII.

So spake he; and was buckling
Tighter black Auster's band,
When he was aware of a princely pair
That rode at his right hand.
So like they were, no mortal
Might one from other know:
White as snow their armour was:
Their steeds were white as snow.
Never on earthly anvil

Did such rare armour gleam;
And never did such gallant steeds
Drink of an earthly stream.

XXXIII.

And all who saw them trembled,
And pale grew every cheek;
And Aulus the Dictator
Scarce gathered voice to speak.
"Say by what name men call you?
What city is your home?
And wherefore ride ye in such guise
Before the ranks of Rome?"

XXXIV.

"By many names men call us;
In many lands we dwell:
Well Samothracia knows us;
Cyrene knows us well.
Our house in gay Tarentum
Is hung each morn with flowers
High o'er the masts of Syracuse
Our marble portal towers;
But by the proud Eurotas
Is our dear native home;
And for the right we come to fight
Before the ranks of Rome."

XXXV.

So answered those strange horsemen,
And each couched low his spear;
And forthwith all the ranks of Rome
Were bold, and of good cheer:
And on the thirty armies
Came wonder and affright,
And Ardea wavered on the left,
And Cora on the right.
"Rome to the charge!" cried Aulus;
"The foe begins to yield!

Charge for the hearth of Vesta!
Charge for the Golden Shield!
Let no man stop to plunder,
But slay, and slay, and slay;
The Gods who live forever
Are on our side to-day."

XXXVI.

Then the fierce trumpet-flourish
From earth to heaven arose,
The kites know well the long stern swell
That bids the Romans close.
Then the good sword of Aulus
Was lifted up to slay:
Then, like a crag down Apennine,
Rushed Auster through the fray.
But under those strange horsemen
Still thicker lay the slain;
And after those strange horses
Black Auster toiled in vain.
Behind them Rome's long battle
Came rolling on the foe,
Ensigns dancing wild above,
Blades all in line below.
So comes the Po in flood-time
Upon the Celtic plain:
So comes the squall, blacker than night,
Upon the Adrian main.
Now, by our Sire Quirinus,
It was a goodly sight
To see the thirty standards
Swept down the tide of flight.
So flies the spray of Adria
When the black squall doth blow
So corn-sheaves in the flood-time
Spin down the whirling Po.
False Sextus to the mountains
Turned first his horse's head;
And fast fled Ferentinum,

And fast Lanuvium fled.
The horsemen of Nomentum
Spurred hard out of the fray;
The footmen of Velitræ
Threw shield and spear away.
And underfoot was trampled,
Amidst the mud and gore,
The banner of proud Tusculum,
That never stooped before:
And down went Flavius Faustus,
Who led his stately ranks
From where the apple blossoms wave
On Anio's echoing banks,
And Tullus of Arpinum,
Chief of the Volscian aids,
And Metius with the long fair curls,
The love of Anxur's maids,
And the white head of Vulso,
The great Arician seer,
And Nepos of Laurentum,
The hunter of the deer;
And in the back false Sextus
Felt the good Roman steel,
And wriggling in the dust he died,
Like a worm beneath the wheel:
And fliers and pursuers
Were mingled in a mass;
And far away the battle
Went roaring through the pass.

XXXVII.

Sempronius Atratinus
Sate in the Eastern Gate,
Beside him were three Fathers,
Each in his chair of state;
Fabius, whose nine stout grandsons
That day were in the field,
And Manlius, eldest of the Twelve
Who keep the Golden Shield;

And Sergius, the High Pontiff,
For wisdom far renowned;
In all Etruria's colleges
Was no such Pontiff found.
And all around the portal,
And high above the wall,
Stood a great throng of people,
But sad and silent all;
Young lads and stooping elders
That might not bear the mail,
Matrons with lips that quivered,
And maids with faces pale.
Since the first gleam of daylight,
Sempronius had not ceased
To listen for the rushing
Of horse-hoofs from the east.
The mist of eve was rising,
The sun was hastening down,
When he was aware of a princely pair
Fast pricking towards the town.
So like they were, man never
Saw twins so like before;
Red with gore their armour was,
Their steeds were red with gore.

XXXVIII.

"Hail to the great Asylum!
Hail to the hill-tops seven!
Hail to the fire that burns for aye,
And the shield that fell from heaven!
This day, by Lake Regillus,
Under the Porcian height,
All in the lands of Tusculum
Was fought a glorious fight.
To-morrow your Dictator
Shall bring in triumph home
The spoils of thirty cities
To deck the shrines of Rome!"

XXXIX.

Then burst from that great concourse
A shout that shook the towers,
And some ran north, and some ran south,
Crying, "The day is ours!"
But on rode these strange horsemen,
With slow and lordly pace;
And none who saw their bearing
Durst ask their name or race.
On rode they to the Forum,
While laurel-boughs and flowers,
From house-tops and from windows,
Fell on their crests in showers.
When they drew nigh to Vesta,
They vaulted down amain,
And washed their horses in the well
That springs by Vesta's fane,
And straight again they mounted,
And rode to Vesta's door;
Then, like a blast, away they passed,
And no man saw them more.

XL.

And all the people trembled,
And pale grew every cheek;
And Sergius the High Pontiff
Alone found voice to speak:
"The gods who live forever
Have fought for Rome to-day!
These be the Great Twin Brethren
To whom the Dorians pray.
Back comes the Chief in triumph,
Who, in the hour of fight,
Hath seen the Great Twin Brethren
In harness on his right.
Safe comes the ship to haven,
Through billows and through gales,
If once the Great Twin Brethren
Sit shining on the sails.

Wherefore they washed their horses
In Vesta's holy well,
Wherefore they rode to Vesta's door,
I know, but may not tell.
Here, hard by Vesta's temple,
Build we a stately dome
Unto the Great Twin Brethren
Who fought so well for Rome.
And when the months returning
Bring back this day of fight,
The proud Ides of Quintilis,
Marked evermore with white,
Unto the Great Twin Brethren
Let all the people throng,
With chaplets and with offerings,
With music and with song;
And let the doors and windows
Be hung with garlands all,
And let the knights be summoned
To Mars without the wall:
Thence let them ride in purple
With joyous trumpet-sound,
Each mounted on his war-horse,
And each with olive crowned;
And pass in solemn order
Before the sacred dome,
Where dwell the Great Twin Brethren
Who fought so well for Rome."

VIRGINIA.

A COLLECTION consisting exclusively of war-songs would give an imperfect, or rather an erroneous, notion of the spirit of the old Latin ballads. The Patricians, during more than a century after the expulsion of the Kings, held all the high military commands. A Plebeian, even though, like Lucius Siccius, he were distinguished by his valour and knowledge of war, could serve only in subordinate posts. A minstrel, therefore, who wished to celebrate the early triumphs of his country, could hardly take any but Patricians for his heroes. The warriors who are mentioned in the two preceding lays, Horatius, Lartius, Herminius, Aulus Posthumius, Æbutius Elva, Sempronius Atratinus, Valerius Poplicola, were all members of the dominant order; and a poet who was singing their praises, whatever his own political opinions might be, would naturally abstain from insulting the class to which they belonged, and from reflecting on the system which had placed such men at the head of the legions of the Commonwealth.

But there was a class of compositions in which the great families were by no means so courteously treated. No parts of early Roman history are richer with poetical colouring than those which relate to the long contest between the privileged houses and the commonalty. The population of Rome was, from a very early period, divided into hereditary castes, which, indeed, readily united to repel foreign enemies, but which regarded each other, during many years, with bitter animosity. Between those castes there was a barrier hardly less strong than that which, at Venice, parted the members of the Great Council from their countrymen. In some respects, indeed, the line which separated an Icilius or

a Duilius from a Posthumius or a Fabius was even more deeply marked than that which separated the rower of a gondola from a Contarini or a Morosini. At Venice the distinction was merely civil. At Rome it was both civil and religious. Among the grievances under which the Plebeians suffered, three were felt as peculiarly severe. They were excluded from the highest magistracies; they were excluded from all share in the public lands; and they were ground down to the dust by partial and barbarous legislation touching pecuniary contracts. The ruling class in Rome was a moneyed class; and it made and administered the laws with a view solely to its own interest. Thus the relation between lender and borrower was mixed up with the relation between sovereign and subject. The great men held a large portion of the community in dependence by means of advances at enormous usury. The law of debt, framed by creditors, and for the protection of creditors, was the most horrible that has ever been known among men. The liberty, and even the life of the insolvent were at the mercy of the Patrician money-lenders. Children often became slaves in consequence of the misfortunes of their parents. The debtor was imprisoned, not in a public gaol under the care of impartial public functionaries, but in a private workhouse belonging to the creditor. Frightful stories were told respecting these dungeons. It was said that torture and brutal violation were common; that tight stocks, heavy chains, scanty measures of food, were used to punish wretches guilty of nothing but poverty; and that brave soldiers, whose breasts were covered with honourable scars, were often marked still more deeply on the back by the scourges of high-born usurers.

The Plebeians were, however, not wholly without constitutional rights. From an early period they had been admitted to some share of political power. They were enrolled each in his century, and were allowed a share, considerable though not proportioned to their numerical strength, in the disposal of those high dignities from which they were themselves excluded. Thus their position bore some resemblance to that of the Irish Catholics during the

interval between the year 1792 and the year 1829. The Plebeians had also the privilege of annually appointing officers, named Tribunes, who had no active share in the government of the Commonwealth, but who, by degrees, acquired a power formidable even to the ablest and most resolute Consuls and Dictators. The person of the Tribune was inviolable; and, though he could directly effect little, he could obstruct everything.

During more than a century after the institution of the Tribuneship, the Commons struggled manfully for the removal of the grievances under which they laboured; and, in spite of many checks and reverses, succeeded in wringing concession after concession from the stubborn aristocracy. At length in the year of the city 378, both parties mustered their whole strength for their last and most desperate conflict. The popular and active Tribune, Caius Licinius, proposed the three memorable laws which are called by his name, and which were intended to redress the three great evils of which the Plebeians complained. He was supported, with eminent ability and firmness, by his colleague, Lucius Sextius. The struggle appears to have been the fiercest that ever in any community terminated without an appeal to arms. If such a contest had raged in any Greek city, the streets would have run with blood. But, even in the paroxysms of faction, the Roman retained his gravity, his respect for law, and his tenderness for the lives of his fellow-citizens. Year after year Licinius and Sextius were reëlected Tribunes. Year after year, if the narrative which has come down to us is to be trusted, they continued to exert, to the full extent, their power of stopping the whole machine of government. No curule magistrates could be chosen; no military muster could be held. We know too little of the state of Rome in those days to be able to conjecture how, during that long anarchy, the peace was kept, and ordinary justice administered between man and man. The animosity of both parties rose to the greatest height. The excitement, we may well suppose, would have been peculiarly intense at the annual election of Tribunes. On such occasions there can be little doubt

that the great families did all that could be done, by threats and caresses, to break the union of the Plebeians. That union, however, proved indissoluble. At length the good cause triumphed. The Licinian laws were carried. Lucius Sextius was the first Plebeian Consul, Caius Licinius the third.

The results of this great change were singularly happy and glorious. Two centuries of prosperity, harmony, and victory followed the reconciliation of the orders. Men who remembered Rome engaged in waging petty wars almost within sight of the Capitol lived to see her the mistress of Italy. While the disabilities of the Plebeians continued, she was scarcely able to maintain her ground against the Volscians and Hernicans. When those disabilities were removed, she rapidly became more than a match for Carthage and Macedon.

During the great Licinian contest the Plebeian poets were, doubtless, not silent. Even in modern times songs have been by no means without influence on public affairs; and we may therefore infer that, in a society where printing was unknown, and where books were rare, a pathetic or humourous party-ballad must have produced effects such as we can but faintly conceive. It is certain that satirical poems were common at Rome from a very early period. The rustics, who lived at a distance from the seat of government, and took little part in the strife of factions, gave vent to their petty local animosities in coarse Fescennine verse. The lampoons of the city were doubtless of a higher order; and their sting was early felt by the nobility. For in the Twelve Tables, long before the time of the Licinian laws, a severe punishment was denounced against the citizen who should compose or recite verses reflecting on another.[1] Satire is, indeed, the only sort of composition in which the Latin poets, whose works have come down to us, were not mere imitators of foreign models; and it is therefore the

[1] Cicero justly infers from this law that there had been early Latin poets whose works had been lost before his time. "Quamquam id quidem etiam xii tabulæ declarant, cond jam tum solitum esse carmen, quod ne licere fieri ad alterius injuriam lege sanxerunt." — *Tusc.* iv. 2.

only sort of composition in which they have never been rivalled. It was not, like their tragedy, their comedy, their epic and lyric poetry, a hothouse plant which, in return for assiduous and skilful culture, gave only scanty and sickly fruits. It was hardy and full of sap: and in all the various juices which it yielded might be distinguished the flavour of the Ausonian soil. "Satire," said Quinctilian, with just pride, "is all our own." Satire sprang, in truth, naturally from the constitution of the Roman government and from the spirit of the Roman people; and, though at length subjected to metrical rules derived from Greece, retained to the last an essentially Roman character. Lucilius was the earliest satirist whose works were held in esteem under the Cæsars. But many years before Lucilius was born, Nævius had been flung into a dungeon, and guarded there with circumstances of unusual rigour, on account of the bitter lines in which he had attacked the great Cæcilian family.[1] The genius and spirit of the Roman satirists survived the liberty of their country, and were not extinguished by the cruel despotism of the Julian and Flavian Emperors. The great poet who told the story of Domitian's turbot, was the legitimate successor of those forgotten minstrels whose songs animated the factions of the infant Republic.

Those minstrels, as Niebuhr has remarked, appear to have generally taken the popular side. We can hardly be mistaken in supposing that, at the great crisis of the civil conflict, they employed themselves in versifying all the most powerful and virulent speeches of the Tribunes, and in heaping abuse on the leaders of the aristocracy. Every personal defect, every domestic scandal, every tradition dishonourable to a noble house, would be sought out, brought into notice, and exaggerated. The illustrious head of the aristocratical party, Marcus Furius Camillus, might perhaps be, in some measure, protected by his venerable age and by the memory of his great services to the State. But Appius Claudius Crassus enjoyed no such immunity. He was descended from a long line of ancestors distinguished by their haughty demeanour, and by the inflexi-

[1] Plautus, Miles Gloriosus. Aulus Gellius, iii. 3.

bility with which they had withstood all the demands of the Plebeian order. While the political conduct and the deportment of the Claudian nobles drew upon them the fiercest public hatred, they were accused of wanting, if any credit is due to the early history of Rome, a class of qualities which, in a military Commonwealth, is sufficient to cover a multitude of offences. The chiefs of the family appear to have been eloquent, versed in civil business, and learned after the fashion of their age; but in war they were not distinguished by skill or valour. Some of them, as if conscious where their weakness lay, had, when filling the highest magistracies, taken internal administration as their department of public business, and left the military command to their colleagues.[1] One of them had been entrusted with an army, and had failed ignominiously.[2] None of them had been honoured with a triumph. None of them had achieved any martial exploit, such as those by which Lucius Quinctius Cincinnatus, Titus Quinctius Capitolinus, Aulus Cornelius Cossus, and, above all, the great Camillus, had extorted the reluctant esteem of the multitude. During the Licinian conflict, Appius Claudius Crassus signalised himself by the ability and severity with which he harangued against the two great agitators. He would naturally, therefore, be the favorite mark of the Plebeian satirists; nor would they have been at a loss to find a point on which he was open to attack.

His grandfather, called, like himself, Appius Claudius, had left a name as much detested as that of Sextus Tarquinius. This elder Appius had been Consul more than seventy years before the introduction of the Licinian laws. By availing himself of a singular crisis in public feeling, he had obtained the consent of the Commons to the abolition of the Tribuneship, and had been the chief of that Council of Ten to which the whole direction of the State had been committed. In a few months his administration had become universally odious. It had been swept away by an irresistible outbreak of popular fury; and its memory was still

[1] In the years of the city 260, 304, and 330.
[2] In the year of the city 282.

held in popular abhorrence by the whole city. The immediate cause of the downfall of this execrable government was said to have been an attempt made by Appius Claudius upon the chastity of a beautiful young girl of humble birth. The story ran that the Decemvir, unable to succeed by bribes and solicitations, resorted to an outrageous act of tyranny. A vile dependent of the Claudian house laid claim to the damsel as his slave. The case was brought before the tribunal of Appius. The wicked magistrate, in defiance of the clearest proofs, gave judgment for the claimant. But the girl's father, a brave soldier, saved her from servitude and dishonour by stabbing her to the heart in the sight of the whole Forum. That blow was the signal for a general explosion. Camp and city rose at once; the Ten were pulled down; the Tribuneship was reëstablished; and Appius escaped the hands of the executioner only by a voluntary death.

It can hardly be doubted that a story so admirably adapted to the purposes both of the poet and of the demagogue would be eagerly seized upon by minstrels burning with hatred against the Patrician order, against the Claudian house, and especially against the grandson and namesake of the infamous Decemvir.

In order that the reader may judge fairly of these fragments of the lay of Virginia, he must imagine himself a Plebeian who has just voted for the reëlection of Sextius and Licinius. All the power of the Patricians has been exerted to throw out the two great champions of the Commons. Every Posthumius, Æmilius, and Cornelius has used his influence to the utmost. Debtors have been let out of the workhouses on condition of voting against the men of the people; clients have been posted to hiss and interrupt the favourite candidates: Appius Claudius Crassus has spoken with more than his usual eloquence and asperity: all has been in vain; Licinius and Sextius have a fifth time carried all the tribes: work is suspended: the booths are closed: the Plebeians bear on their shoulders the two champions of liberty through the Forum. Just at this moment it is announced that a popular poet, a zealous ad-

herent of the Tribunes, has made a new song which will cut the Claudian nobles to the heart. The crowd gathers round him, and calls on him to recite it. He takes his stand on the spot where, according to tradition, Virginia, more than seventy years ago, was seized by the pandar of Appius, and he begins his story.

VIRGINIA.

FRAGMENTS OF A LAY SUNG IN THE FORUM ON THE DAY WHEREON LUCIUS SEXTIUS SEXTINUS LATERANUS AND CAIUS LICINIUS CALVUS STOLO WERE ELECTED TRIBUNES OF THE COMMONS THE FIFTH TIME, IN THE YEAR OF THE CITY CCCLXXXII.

—•—

Ye good men of the Commons, with loving hearts and true,
Who stand by the bold Tribunes that still have stood by you,
Come, make a circle round me, and mark my tale with care,
A tale of what Rome once hath borne, of what Rome yet may bear.
This is no Grecian fable, of fountains running wine,
Of maids with snaky tresses, or sailors turned to swine.
Here, in this very Forum, under the noonday sun,
In sight of all the people, the bloody deed was done.
Old men still creep among us who saw that fearful day,
Just seventy years and seven ago, when the wicked Ten bare sway.

Of all the wicked Ten still the names are held accursed,
And of all the wicked Ten Appius Claudius was the worst.
He stalked along the Forum like King Tarquin in his pride:
Twelve axes waited on him, six marching on a side;
The townsmen shrank to right and left, and eyed askance with fear
His lowering brow, his curling mouth which always seemed to sneer;
That brow of hate, that mouth of scorn, marks all the kindred still;
For never was there Claudius yet but wished the Commons ill:

Nor lacks he fit attendance; for close behind his heels,
With outstretched chin and crouching pace, the client Marcus steals,
His loins girt up to run with speed, be the errand what it may,
And the smile flickering on his cheek, for aught his lord may say.
Such varlets pimp and jest for hire among the lying Greeks:
Such varlets still are paid to hoot when brave Licinius speaks.
Where'er ye shed the honey, the buzzing flies will crowd;
Where'er ye fling the carrion, the raven's croak is loud;
Where'er down Tiber garbage floats, the greedy pike ye see;
And wheresoe'er such lord is found, such client still will be.

Just then, as through one cloudless chink in a black stormy sky
Shines out the dewy morning-star, a fair young girl came by.
With her small tablets in her hand, and her satchel on her arm,
Home she went bounding from the school, nor dreamed of shame or harm;
And past those dreaded axes she innocently ran,
With bright, frank brow that had not learned to blush at gaze of man;
And up the Sacred Street she turned, and, as she danced along,
She warbled gaily to herself lines of the good old song,
How for a sport the princes came spurring from the camp,
And found Lucrece, combing the fleece, under the midnight lamp.
The maiden sang as sings the lark, when up he darts his flight,
From his nest in the green April corn, to meet the morning light;
And Appius heard her sweet young voice, and saw her sweet young face,
And loved her with the accursed love of his accursed race,

And all along the Forum, and up the Sacred Street,
His vulture eye pursued the trip of those small glancing feet.

* * * * * * *

Over the Alban mountains the light of morning broke;
From all the roofs of the Seven Hills curled the thin wreaths of smoke:
The city-gates were opened; the Forum all alive,
With buyers and with sellers was humming like a hive:
Blithely on brass and timber the craftsman's stroke was ringing,
And blithely o'er her panniers the market-girl was singing,
And blithely young Virginia came smiling from her home:
Ah! woe for young Virginia, the sweetest maid in Rome!
With her small tablets in her hand, and her satchel on her arm,
Forth she went bounding to the school, nor dreamed of shame or harm.
She crossed the Forum shining with stalls in alleys gay,
And just had reached the very spot whereon I stand this day,
When up the varlet Marcus came; not such as when erewhile
He crouched behind his patron's heels with the true client smile:
He came with lowering forehead, swollen features, and clenched fist,
And strode across Virginia's path, and caught her by the wrist.
Hard strove the frighted maiden, and screamed with look aghast;
And at her scream from right and left the folk came running fast;
The money-changer Crispus, with his thin silver hairs,
And Hanno from the stately booth glittering with Punic wares,
And the strong smith Muræna, grasping a half-forged brand,
And Volero the flesher, his cleaver in his hand.

All came in wrath and wonder; for all knew that fair child;
And, as she passed them twice a day, all kissed their hands and smiled;
And the strong smith Muræna gave Marcus such a blow,
The caitiff reeled three paces back, and let the maiden go.
Yet glared he fiercely round him, and growled in harsh, fell tone,
"She 's mine, and I will have her: I seek but for mine own:
She is my slave, born in my house, and stolen away and sold,
The year of the sore sickness, ere she was twelve hours old.
'T was in the sad September, the month of wail and fright,
Two augurs were borne forth that morn; the Consul died ere night.
I wait on Appius Claudius, I waited on his sire:
Let him who works the client wrong beware the patron's ire!"

So spake the varlet Marcus; and dread and silence came
On all the people at the sound of the great Claudian name.
For then there was no Tribune to speak the word of might,
Which makes the rich man tremble, and guards the poor man's right.
There was no brave Licinius, no honest Sextius then;
But all the city, in great fear, obeyed the wicked Ten.
Yet ere the varlet Marcus again might seize the maid,
Who clung tight to Muræna's skirt, and sobbed, and shrieked for aid,
Forth through the throng of gazers the young Icilius pressed,
And stamped his foot, and rent his gown, and smote upon his breast,
And sprang upon that column, by many a minstrel sung,
Whereon three mouldering helmets, three rusting swords, are hung,
And beckoned to the people, and in bold voice and clear
Poured thick and fast the burning words which tyrants quake to hear.

"Now, by your children's cradles, now by your fathers' graves,
Be men to-day, Quirites, or be forever slaves!
For this did Servius give us laws? For this did Lucrece bleed?
For this was the great vengeance wrought on Tarquin's evil seed?
For this did those false sons make red the axes of their sire?
For this did Scævola's right hand hiss in the Tuscan fire?
Shall the vile fox-earth awe the race that stormed the lion's den?
Shall we, who could not brook one lord, crouch to the wicked Ten?
Oh for that ancient spirit which curbed the Senate's will!
Oh for the tents which in old time whitened the Sacred Hill!
In those brave days our fathers stood firmly side by side;
They faced the Marcian fury; they tamed the Fabian pride:
They drove the fiercest Quinctius an outcast forth from Rome;
They sent the haughtiest Claudius with shivered fasces home.
But what their care bequeathed us our madness flung away:
All the ripe fruit of threescore years was blighted in a day.
Exult, ye proud Patricians! The hard-fought fight is o'er.
We strove for honours — 't was in vain: for freedom — 't is no more.
No crier to the polling summons the eager throng;
No tribune breathes the word of might that guards the weak from wrong.
Our very hearts, that were so high, sink down beneath your will.
Riches, and lands, and power, and state — ye have them — keep them still.
Still keep the holy fillets; still keep the purple gown,
The axes, and the curule chair, the car, and laurel crown.
Still press us for your cohorts, and, when the fight is done,

Still fill your garners from the soil which our good swords have won.
Still, like a spreading ulcer, which leech-craft may not cure,
Let your foul usance eat away the substance of the poor.
Still let your haggard debtors bear all their fathers bore;
Still let your dens of torment be noisome as of yore;
No fire when Tiber freezes; no air in dog-star heat;
And store of rods for free-born backs, and holes for free-born feet.
Heap heavier still the fetters; bar closer still the grate;
Patient as sheep we yield us up unto your cruel hate.
But, by the Shades beneath us, and by the Gods above,
Add not unto your cruel hate your yet more cruel love!
Have ye not graceful ladies, whose spotless lineage springs
From Consuls, and High Pontiffs, and ancient Alban kings?
Ladies, who deign not on our paths to set their tender feet,
Who from their cars look down with scorn upon the wondering street,
Who in Corinthian mirrors their own proud smiles behold,
And breathe of Capuan odours, and shine with Spanish gold?
Then leave the poor Plebeian his single tie to life —
The sweet, sweet love of daughter, of sister, and of wife,
The gentle speech, the balm for all that his vexed soul endures,
The kiss, in which he half forgets even such a yoke as yours.
Still let the maiden's beauty swell the father's breast with pride;
Still let the bridegroom's arms infold an unpolluted bride.
Spare us the inexpiable wrong, the unutterable shame,
That turns the coward's heart to steel, the sluggard's blood to flame,
Lest, when our latest hope is fled, ye taste of our despair,
And learn by proof, in some wild hour, how much the wretched dare."

* * * * * * *
* * * * * * *

Straightway Virginius led the maid a little space aside,
To where the reeking shambles stood, piled up with horn and hide,
Close to yon low dark archway, where, in a crimson flood,
Leaps down to the great sewer the gurgling stream of blood.
Hard by, a flesher on a block had laid his whittle down:
Virginius caught the whittle up, and hid it in his gown.
And then his eyes grew very dim, and his throat began to swell,
And in a hoarse, changed voice he spake, "Farewell, sweet child! Farewell!
Oh! how I loved my darling! Though stern I sometimes be,
To thee, thou know'st, I was not so. Who could be so to thee?
And how my darling loved me! How glad she was to hear
My footstep on the threshold when I came back last year!
And how she danced with pleasure to see my civic crown,
And took my sword, and hung it up, and brought me forth my gown!
Now, all those things are over — yes, all thy pretty ways,
Thy needlework, thy prattle, thy snatches of old lays;
And none will grieve when I go forth, or smile when I return,
Or watch beside the old man's bed, or weep upon his urn.
The house that was the happiest within the Roman walls,
The house that envied not the wealth of Capua's marble halls,
Now, for the brightness of thy smile, must have eternal gloom,
And for the music of thy voice, the silence of the tomb.
The time is come. See how he points his eager hand this way!
See how his eyes gloat on thy grief, like a kite's upon the prey!
With all his wit, he little deems, that, spurned, betrayed, bereft,

Thy father hath in his despair one fearful refuge left.
He little deems that in this hand I clutch what still can save
Thy gentle youth from taunts and blows, the portion of the slave;
Yea, and from nameless evil, that passeth taunt and blow —
Foul outrage which thou knowest not, which thou shalt never know.
Then clasp me round the neck once more, and give me one more kiss;
And now mine own dear little girl, there is no way but this."
With that he lifted high the steel, and smote her in the side,
And in her blood she sank to earth, and with one sob she died.

Then, for a little moment, all people held their breath;
And through the crowded Forum was stillness as of death;
And in another moment brake forth from one and all
A cry as if the Volscians were coming o'er the wall.
Some with averted faces shrieking fled home amain;
Some ran to call a leech; and some ran to lift the slain:
Some felt her lips and little wrist, if life might there be found;
And some tore up their garments fast, and strove to stanch the wound.
In vain they ran, and felt, and stanched; for never truer blow
That good right arm had dealt in fight against a Volscian foe.

When Appius Claudius saw that deed, he shuddered and sank down,
And hid his face some little space with the corner of his gown,
Till, with white lips and bloodshot eyes, Virginius tottered nigh,

And stood before the judgment-seat, and held the knife on high.
"Oh! dwellers in the nether gloom, avengers of the slain,
By this dear blood I cry to you, do right between us twain,
And even as Appius Claudius hath dealt by me and mine,
Deal you by Appius Claudius and all the Claudian line!"
So spake the slayer of his child, and turned, and went his way;
But first he cast one haggard glance to where the body lay,
And writhed, and groaned a fearful groan, and then, with steadfast feet,
Strode right across the market-place unto the Sacred Street.

Then up sprang Appius Claudius: "Stop him; alive or dead!
Ten thousand pounds of copper to the man who brings his head."
He looked upon his clients; but none would work his will.
He looked upon his lictors; but they trembled, and stood still.
And, as Virginius through the press his way in silence cleft,
Ever the mighty multitude fell back to right and left.
And he hath passed in safety unto his woeful home,
And there ta'en horse to tell the camp what deeds are done in Rome.

By this the flood of people was swollen from every side,
And streets and porches round were filled with that o'erflowing tide;
And close around the body gathered a little train
Of them that were the nearest and dearest to the slain.
They brought a bier, and hung it with many a cypress crown,
And gently they uplifted her, and gently laid her down.
The face of Appius Claudius wore the Claudian scowl and sneer,
And in the Claudian note he cried, "What doth this rabble here?
Have they no crafts to mind at home, that hitherward they stray?

Ho! lictors, clear the market-place, and fetch the corpse away!"
The voice of grief and fury till then had not been loud;
But a deep sullen murmur wandered among the crowd,
Like the moaning noise that goes before the whirlwind on the deep,
Or the growl of a fierce watch-dog but half-aroused from sleep.
But when the lictors at that word, tall yeomen all and strong,
Each with his axe and sheaf of twigs, went down into the throng,
Those old men say, who saw that day of sorrow and of sin,
That in the Roman Forum was never such a din.
The wailing, hooting, cursing, the howls of grief and hate,
Were heard beyond the Pincian Hill, beyond the Latin Gate.
But close around the body, where stood the little train
Of them that were the nearest and dearest to the slain,
No cries were there, but teeth set fast, low whispers and black frowns,
And breaking up of benches, and girding up of gowns.
'T was well the lictors might not pierce to where the maiden lay,
Else surely had they been all twelve torn limb from limb that day.
Right glad they were to struggle back, blood streaming from their heads,
With axes all in splinters, and raiment all in shreds.
Then Appius Claudius gnawed his lip, and the blood left his cheek;
And thrice he beckoned with his hand, and thrice he strove to speak;
And thrice the tossing Forum set up a frightful yell;
'See, see, thou dog! what thou hast done; and hide thy shame in hell!
Thou that wouldst make our maidens slaves must first make slaves of men.
Tribunes! Hurrah for Tribunes! Down with the wicked Ten!"

And straightway, thick as hailstones, came whizzing through the air,
Pebbles, and bricks, and potsherds, all round the curule chair:
And upon Appius Claudius great fear and trembling came,
For never was a Claudius yet brave against aught but shame.
Though the great houses love us not, we own, to do them right,
That the great houses, all save one, have borne them well in fight.
Still Caius of Corioli, his triumphs and his wrongs,
His vengeance and his mercy, live in our camp-fire songs.
Beneath the yoke of Furius oft have Gaul and Tuscan bowed;
And Rome may bear the pride of him of whom herself is proud.
But evermore a Claudius shrinks from a stricken field,
And changes colour like a maid at sight of sword and shield.
The Claudian triumphs all were won within the city towers;
The Claudian yoke was never pressed on any necks but ours.
A Cossus, like a wild cat, springs ever at the face;
A Fabius rushes like a boar against the shouting chase;
But the vile Claudian litter, raging with currish spite,
Still yelps and snaps at those who run, still runs from those who smite.
So now 't was seen of Appius. When stones began to fly,
He shook, and crouched, and wrung his hands, and smote upon his thigh.
"Kind clients, honest lictors, stand by me in this fray!
Must I be torn in pieces? Home, home, the nearest way!"
While yet he spake, and looked around with a bewildered stare,
Four sturdy lictors put their necks beneath the curule chair;
And fourscore clients on the left, and fourscore on the right,

Arrayed themselves with swords and staves, and loins girt up for fight.
But, though without or staff or sword, so furious was the throng,
That scarce the train with might and main could bring their lord along.
Twelve times the crowd made at him; five times they seized his gown;
Small chance was his to rise again, if once they got him down:
And sharper came the pelting; and evermore the yell —
"Tribunes! we will have Tribunes!" — rose with a louder swell:
And the chair tossed as tosses a bark with tattered sail
When raves the Adriatic beneath an eastern gale,
When the Calabrian sea-marks are lost in clouds of spume,
And the great Thunder-Cape has donned his veil of inky gloom.
One stone hit Appius in the mouth, and one beneath the ear;
And ere he reached Mount Palatine, he swooned with pain and fear.
His cursed head, that he was wont to hold so high with pride,
Now, like a drunken man's, hung down, and swayed from side to side;
And when his stout retainers had brought him to his door,
His face and neck were all one cake of filth and clotted gore.
As Appius Claudius was that day, so may his grandson be!
God send Rome one such other sight, and send me there to see!

* * * * * * * *

THE PROPHECY OF CAPYS.

It can hardly be necessary to remind any reader that according to the popular tradition, Romulus, after he had slain his grand-uncle Amulius, and restored his grandfather Numitor, determined to quit Alba, the hereditary domain of the Sylvian princes, and found a new city. The Gods, it was added, vouchsafed the clearest signs of the favour with which they regarded the enterprise, and of the high destinies reserved for the young colony.

This event was likely to be a favourite theme of the old Latin minstrels. They would naturally attribute the project of Romulus to some divine intimation of the power and prosperity which it was decreed that his city should attain. They would probably introduce seers foretelling the victories of unborn Consuls and Dictators, and the last great victory would generally occupy the most conspicuous place in the prediction. There is nothing strange in the supposition that the poet who was employed to celebrate the first great triumph of the Romans over the Greeks might throw his song of exultation into this form.

The occasion was one likely to excite the strongest feelings of national pride. A great outrage had been followed by a great retribution. Seven years before this time, Lucius Posthumius Megellus, who sprang from one of the noblest houses of Rome, and had been thrice Consul, was sent ambassador to Tarentum, with charge to demand reparation for grievous injuries. The Tarentines gave him audience in their theatre, where he addressed them in such Greek as he could command, which, we may well believe, was not exactly such as Cineas would have spoken. An exquisite sense of

the ridiculous belonged to the Greek character; and closely connected with this faculty was a strong propensity to flippancy and impertinence. When Posthumius placed an accent wrong, his hearers burst into a laugh. When he remonstrated, they hooted him, and called him barbarian; and at length hissed him off the stage as if he had been a bad actor. As the grave Roman retired, a buffoon who, from his constant drunkenness, was nicknamed the Pint-pot, came up with gestures of the grossest indecency, and bespattered the senatorial gown with filth. Posthumius turned round to the multitude, and held up the gown, as if appealing to the universal law of nations. The sight only increased the insolence of the Tarentines. They clapped their hands, and set up a shout of laughter which shook the theatre. "Men of Tarentum," said Posthumius, "it will take not a little blood to wash this gown." [1]

Rome, in consequence of this insult, declared war against the Tarentines. The Tarentines sought for allies beyond the Ionian Sea. Pyrrhus, king of Epirus, came to their help with a large army; and, for the first time, the two great nations of antiquity were fairly matched against each other.

The fame of Greece in arms, as well as in arts, was then at the height. Half a century earlier, the career of Alexander had excited the admiration and terror of all nations from the Ganges to the Pillars of Hercules. Royal houses, founded by Macedonian captains, still reigned at Antioch and Alexandria. That barbarian warriors, led by barbarian chiefs, should win a pitched battle against Greek valour guided by Greek science, seemed as incredible as it would now seem that the Burmese or the Siamese should, in the open plain, put to flight an equal number of the best English troops. The Tarentines were convinced that their countrymen were irresistible in war; and this conviction had emboldened them to treat with the grossest indignity one whom they regarded as the representative of an inferior race. Of the Greek generals then living Pyrrhus was indisputably the first. Among the troops who were trained in the Greek

[1] Dion. Hal. De Legationibus.

discipline his Epirotes ranked high. His expedition to Italy was a turning-point in the history of the world. He found there a people who, far inferior to the Athenians and Corinthians in the fine arts, in the speculative sciences, and in all the refinements of life, were the best soldiers on the face of the earth. Their arms, their gradations of rank, their order of battle, their method of intrenchment, were all of Latin origin, and had all been gradually brought near to perfection, not by the study of foreign models, but by the genius and experience of many generations of great native commanders. The first words which broke from the king, when his practised eye had surveyed the Roman encampment, were full of meaning: — "These barbarians," he said, "have nothing barbarous in their military arrangements." He was at first victorious; for his own talents were superior to those of the captains who were opposed to him; and the Romans were not prepared for the onset of the elephants of the East, which were then for the first time seen in Italy — moving mountains, with long snakes for hands.[1] But the victories of the Epirotes were fiercely disputed, dearly purchased, and altogether unprofitable. At length, Manius Curius Dentatus, who had in his first Consulship won two triumphs, was again placed at the head of the Roman Commonwealth, and sent to encounter the invaders. A great battle was fought near Beneventum. Pyrrhus was completely defeated. He repassed the sea; and the world learned, with amazement, that a people had been discovered, who, in fair fighting, were superior to the best troops that had been drilled on the system of Parmenio and Antigonus.

The conquerors had a good right to exult in their success; for their glory was all their own. They had not learned from their enemy how to conquer him. It was with their own national arms, and in their own national battle-array, that they had overcome weapons and tactics long believed to be invincible. The pilum and the broadsword had vanquished the Macedonian spear. The legion had broken the Macedonian phalanx. Even the elephants, when the

[1] *Anguimanus* is the old Latin epithet for an elephant. Lucretius, ii. 538 v. 1302.

surprise produced by their first appearance was over, could cause no disorder in the steady yet flexible battalions of Rome.

It is said by Florus, and may easily be believed, that the triumph far surpassed in magnificence any that Rome had previously seen. The only spoils which Papirius Cursor and Fabius Maximus could exhibit were flocks and herds, waggons of rude structure, and heaps of spears and helmets. But now, for the first time, the riches of Asia and the arts of Greece adorned a Roman pageant. Plate, fine stuffs, costly furniture, rare animals, exquisite paintings and sculptures, formed part of the procession. At the banquet would be assembled a crowd of warriors and statesmen, among whom Manius Curius Dentatus would take the highest room. Caius Fabricius Luscinus, then, after two Consulships and two triumphs, Censor of the Commonwealth, would doubtless occupy a place of honour at the board. In situations less conspicuous probably lay some of those who were, a few years later, the terror of Carthage; Caius Duilius, the founder of the maritime greatness of his country; Marcus Atilius Regulus, who owed to defeat a renown far higher than that which he had derived from his victories; and Caius Lutatius Catulus, who, while suffering from a grievous wound, fought the great battle of the Ægates, and brought the first Punic War to a triumphant close. It is impossible to recount the names of these eminent citizens, without reflecting that they were all, without exception, Plebeians, and would, but for the ever-memorable struggle maintained by Caius Licinius and Lucius Sextius, have been doomed to hide in obscurity, or to waste in civil broils, the capacity and energy which prevailed against Pyrrhus and Hamilcar.

On such a day we may suppose that the patriotic enthusiasm of a Latin poet would vent itself in reiterated shouts of *Io triumphe*, such as were uttered by Horace on a far less exciting occasion, and in boasts resembling those which Virgil put into the mouth of Anchises. The superiority of some foreign nations, and especially of the Greeks, in the lazy arts of peace, would be admitted with disdainful candour; but preëminence in all the qualities which fit a peo

ple to subdue and govern mankind would be claimed for the Romans.

The following lay belongs to the latest age of Latin ballad-poetry. Nævius and Livius Andronicus were probably among the children whose mothers held them up to see the chariot of Curius go by. The minstrel who sang on that day might possibly have lived to read the first hexameters of Ennius, and to see the first comedies of Plautus. His poem, as might be expected, shows a much wider acquaintance with the geography, manners, and productions of remote nations, than would have been found in compositions of the age of Camillus. But he troubles himself little about dates, and having heard travellers talk with admiration of the Colossus of Rhodes, and of the structures and gardens with which the Macedonian kings of Syria had embellished their residence on the banks of the Orontes, he has never thought of inquiring whether these things existed in the age of Romulus.

THE PROPHECY OF CAPYS.

A LAY SUNG AT THE BANQUET IN THE CAPITOL, ON THE DAY WHEREON MANIUS CURIUS DENTATUS, A SECOND TIME CONSUL, TRIUMPHED OVER KING PYRRHUS AND THE TARENTINES, IN THE YEAR OF THE CITY CCCCLXXIX.

I.

Now slain is King Amulius,
Of the great Sylvian line,
Who reigned in Alba Longa,
On the throne of Aventine.
Slain is the Pontiff Camers,
Who spake the words of doom:
"The children to the Tiber;
The mother to the tomb."

II.

In Alba's lake no fisher
His net to-day is flinging:
On the dark rind of Alba's oaks
To-day no axe is ringing:
The yoke hangs o'er the manger:
The scythe lies in the hay:
Through all the Alban villages
No work is done to-day.

III.

And every Alban burgher
Hath donned his whitest gown;
And every head in Alba
Weareth a poplar crown;

And every Alban door-post
With boughs and flowers is gay,
For to-day the dead are living;
The lost are found to-day.

IV.

They were doomed by a bloody king:
They were doomed by a lying priest:
They were cast on the raging flood:
They were tracked by the raging beast:
Raging beast and raging flood
Alike have spared the prey;
And to-day the dead are living:
The lost are found to-day.

V.

The troubled river knew them,
And smoothed his yellow foam
And gently rocked the cradle
That bore the fate of Rome.
The ravening she-wolf knew them,
And licked them o'er and o'er,
And gave them of her own fierce milk,
Rich with raw flesh and gore.
Twenty winters, twenty springs,
Since then have rolled away;
And to-day the dead are living:
The lost are found to-day.

VI.

Blithe it was to see the twins,
Right goodly youths and tall,
Marching from Alba Longa
To their old grandsire's hall.
Along their path fresh garlands
Are hung from tree to tree:
Before them stride the pipers,
Piping a note of glee.

VII.

On the right goes Romulus,
With arms to the elbows red,
And in his hand a broadsword,
And on the blade a head —
A head in an iron helmet,
With horse-hair hanging down,
A shaggy head, a swarthy head,
Fixed in a ghastly frown —
The head of King Amulius
Of the great Sylvian line,
Who reigned in Alba Longa,
On the throne of Aventine.

VIII.

On the left side goes Remus,
With wrists and fingers red,
And in his hand a boar-spear,
And on the point a head —
A wrinkled head and aged,
With silver beard and hair,
And holy fillets round it,
Such as the pontiffs wear —
The head of ancient Camers,
Who spake the words of doom ;
"The children to the Tiber ;
The mother to the tomb."

IX.

Two and two behind the twins
Their trusty comrades go,
Four and forty valiant men,
With club, and axe, and bow.
On each side every hamlet
Pours forth its joyous crowd,
Shouting lads and baying dogs,
And children laughing loud,
And old men weeping fondly
As Rhea's boys go by,

And maids who shriek to see the heads,
Yet, shrieking, press more nigh.

X.

So they marched along the lake;
They marched by fold and stall,
By cornfield and by vineyard,
Unto the old man's hall.

XI.

In the hall-gate sate Capys,
Capys, the sightless seer;
From head to foot he trembled
As Romulus drew near.
And up stood stiff his thin white hair,
And his blind eyes flashed fire:
"Hail! foster child of the wonderous nurse!
Hail! son of the wonderous sire!

XII.

"But thou — what dost thou here
In the old man's peaceful hall?
What doth the eagle in the coop,
The bison in the stall?
Our corn fills many a garner;
Our vines clasp many a tree;
Our flocks are white on many a hill
But these are not for thee.

XIII.

"For thee no treasure ripens
In the Tartessian mine:
For thee no ship brings precious bales
Across the Libyan brine;
Thou shalt not drink from amber;
Thou shalt not rest on down;
Arabia shall not steep thy locks,
Nor Sidon tinge thy gown.

XIV.

"Leave gold and myrrh and jewels,
Rich table and soft bed,
To them who of man's seed are born,
Whom woman's milk have fed.
Thou wast not made for lucre,
For pleasure, nor for rest;
Thou, that art sprung from the War-god's loins,
And hast tugged at the she-wolf's breast.

XV.

"From sunrise unto sunset
All earth shall hear thy fame:
A glorious city thou shalt build,
And name it by thy name:
And there, unquenched through ages,
Like Vesta's sacred fire,
Shall live the spirit of thy nurse,
The spirit of thy sire.

XVI.

"The ox toils through the furrow,
Obedient to the goad;
The patient ass, up flinty paths,
Plods with his weary load:
With whine and bound the spaniel
His master's whistle hears;
And the sheep yields her patiently
To the loud clashing shears.

XVII.

"But thy nurse will hear no master,
Thy nurse will bear no load;
And woe to them that shear her,
And woe to them that goad!
When all the pack, loud baying,
Her bloody lair surrounds,
She dies in silence, biting hard,
Amidst the dying hounds.

XVIII.

"Pomona loves the orchard;
And Liber loves the vine;
And Pales loves the straw-built shed
Warm with the breath of kine;
And Venus loves the whispers
Of plighted youth and maid,
In April's ivory moonlight
Beneath the chestnut shade.

XIX.

"But thy father loves the clashing
Of broadsword and of shield:
He loves to drink the steam that reeks
From the fresh battle-field:
He smiles a smile more dreadful
Than his own dreadful frown,
When he sees the thick black cloud of smoke
Go up from the conquered town.

XX.

"And such as is the War-god,
The author of thy line,
And such as she who suckled thee,
Even such be thou and thine.
Leave to the soft Campanian
His baths and his perfumes;
Leave to the sordid race of Tyre
Their dyeing-vats and looms:
Leave to the sons of Carthage
The rudder and the oar:
Leave to the Greek his marble Nymphs
And scrolls of wordy lore.

XXI.

"Thine, Roman, is the pilum:
Roman, the sword is thine,
The even trench, the bristling mound,
The legion's ordered line;

And thine the wheels of triumph,
Which with their laurelled train
Move slowly up the shouting streets
To Jove's eternal fane.

XXII.

"Beneath thy yoke the Volscian
Shall vail his lofty brow:
Soft Capua's curled revellers
Before thy chairs shall bow:
The Lucumoes of Arnus
Shall quake thy rods to see;
And the proud Samnite's heart of steel
Shall yield to only thee.

XXIII.

"The Gaul shall come against thee
From the land of snow and night:
Thou shalt give his fair-haired armies
To the raven and the kite.

XXIV.

"The Greek shall come against thee,
The conqueror of the East.
Beside him stalks to battle
The huge earth-shaking beast,
The beast on whom the castle
With all its guards doth stand,
The beast who hath between his eyes
The serpent for a hand.
First march the bold Epirotes,
Wedged close with shield and spear,
And the ranks of false Tarentum
Are glittering in the rear.

XXV.

"The ranks of false Tarentum
Like hunted sheep shall fly:

In vain the bold Epirotes
Shall round their standards die ·
And Apennine's grey vultures
Shall have a noble feast
On the fat and the eyes
Of the huge earth-shaking beast.

XXVI.

"Hurrah! for the good weapons
That keep the War-god's land.
Hurrah! for Rome's stout pilum
In a stout Roman hand.
Hurrah! for Rome's short broadsword
That through the thick array
Of levelled spears and serried shields
Hews deep its gory way.

XXVII.

"Hurrah! for the great triumph
That stretches many a mile.
Hurrah! for the wan captives
That pass in endless file.
Ho! bold Epirotes, whither
Hath the Red King ta'en flight?
Ho! dogs of false Tarentum,
Is not the gown washed white?

XXVIII.

"Hurrah! for the great triumph
That stretches many a mile.
Hurrah! for the rich dye of Tyre,
And the fine web of Nile,
The helmets gay with plumage
Torn from the pheasant's wings,
The belts set thick with starry gems
That shone on Indian kings,
The urns of massy silver,
The goblets rough with gold,
The many-coloured tablets bright

With loves and wars of old,
The stone that breathes and struggles,
The brass that seems to speak; —
Such cunning they who dwell on high
Have given unto the Greek.

XXIX.

"Hurrah! for Manius Curius,
The bravest son of Rome,
Thrice in utmost need sent forth,
Thrice drawn in triumph home.
Weave, weave, for Manius Curius
The third embroidered gown:
Make ready the third lofty car,
And twine the third green crown;
And yoke the steeds of Rosea
With necks like a bended bow
And deck the bull, Mevania's bull,
The bull as white as snow.

XXX.

"Blest and thrice blest the Roman
Who sees Rome's brightest day,
Who sees that long victorious pomp
Wind down the Sacred Way,
And through the bellowing Forum,
And round the Suppliant's Grove,
Up to the everlasting gates
Of Capitolian Jove.

XXXI.

"Then where, o'er two bright havens,
The towers of Corinth frown;
Where the gigantic King of Day
On his own Rhodes looks down;
Where soft Orontes murmurs
Beneath the laurel shades;
Where Nile reflects the endless length
Of dark red colonnades;

Where in the still deep water,
Sheltered from waves and blasts,
Bristles the dusky forest
Of Byrsa's thousand masts;
Where fur-clad hunters wander
Amidst the northern ice;
Where through the sand of morning-land
The camel bears the spice;
Where Atlas flings his shadow
Far o'er the western foam,
Shall be great fear on all who hear
The mighty name of Rome."

MISCELLANEOUS POEMS,

INSCRIPTIONS, ETC.

EPITAPH ON HENRY MARTYN. (1812.)

HERE Martyn lies. In Manhood's early bloom
The Christian Hero finds a Pagan tomb.
Religion, sorrowing o'er her favourite son,
Points to the glorious trophies that he won.
Eternal trophies! not with carnage red,
Not stained with tears by hapless captives shed,
But trophies of the Cross! for that dear name,
Through every form of danger, death and shame,
Onward he journeyed to a happier shore,
Where danger, death, and shame assault no more.

LINES TO THE MEMORY OF PITT.

(1813.)

Oh Britain! dear Isle, when the annals of story
Shall tell of the deeds that thy children have done,
When the strains of each poet shall sing of their glory,
And the triumphs their skill and their valour have won;

When the olive and palm in thy chaplet are blended,
When thy arts, and thy fame, and thy commerce increase,
When thy arms through the uttermost coasts are extended,
And thy war is triumphant, and happy thy peace;

When the ocean, whose waves like a rampart flow round thee,
Conveying thy mandates to every shore,
And the empire of nature no longer can bound thee,
And the world be the scene of thy conquests no more:

Remember the man who in sorrow and danger,
When thy glory was set, and thy spirit was low,
When thy hopes were o'erturned by the arms of the stranger,
And thy banners displayed in the halls of the foe,

Stood forth in the tempest of doubt and disaster,
Unaided, and single, the danger to brave,
Asserted thy claims, and the rights of his master,
Preserved thee to conquer, and saved thee to save.

A RADICAL WAR SONG. (1820.)

AWAKE, arise, the hour is come,
For rows and revolutions;
There 's no receipt like pike and drum
For crazy constitutions.
Close, close the shop! Break, break the loom,
Desert your hearths and furrows,
And throng in arms to seal the doom
Of England's rotten boroughs.

We 'll stretch that tort'ring Castlereagh
On his own Dublin rack, sir;
We 'll drown the King in Eau de vie,
The Laureate in his sack, sir.
Old Eldon and his sordid hag
In molten gold we 'll smother,
And stifle in his own green bag
The Doctor and his brother.

In chains we 'll hang in fair Guildhall
The City's famed Recorder,
And next on proud St. Stephen's fall,
Though Wynne should squeak to order.
In vain our tyrants then shall try
To 'scape our martial law, sir;
In vain the trembling Speaker cry
That "Strangers must withdraw," sir.

Copley to hang offends no text;
A rat is not a man, sir:

With schedules and with tax bills next
We 'll bury pious Van, sir.
The slaves who loved the Income Tax,
We 'll crush by scores, like mites, sir,
And him, the wretch who freed the blacks,
And more enslaved the whites. sir.

The peer shall dangle from his gate,
The bishop from his steeple,
Till all recanting, own, the State
Means nothing but the People.
We 'll fix the church's revenues
On Apostolic basis, —
One coat, one scrip, one pair of shoes
Shall pay their strange grimaces.

We 'll strap the bar's deluding train
In their own darling halter,
And with his big church bible brain
The parson at the altar.
Hail glorious hour, when fair Reform
Shall bless our longing nation,
And Hunt receive commands to form
A new administration.

Carlisle shall sit enthroned, where sat
Our Cranmer and our Secker;
And Watson show his snow-white hat
In England's rich Exchequer.
The breast of Thistlewood shall wear
Our Wellesley's star and sash, man;
And many a mausoleum fair
Shall rise to honest Cashman.

Then, then beneath the nine-tailed cat
Shall they who used it writhe, sir;
And curates lean, and rectors fat,
Shall dig the ground they tithe, sir;

Down with your Bayleys and your Bests,
Your Giffords, and your Gurneys:
We 'll clear the island of the pests,
Which mortals name attorneys.

Down with your sheriffs, and your mayors,
Your registrars, and proctors,
We 'll live without the lawyer's cares,
And die without the doctor's.
No discontented fair shall pout
To see her spouse so stupid;
We 'll tread the torch of Hymen out,
And live content with Cupid.

Then, when the high-born and the great
Are humbled to our level,
On all the wealth of Church and State,
Like aldermen, we 'll revel.
We 'll live when hushed the battle's din,
In smoking and in cards, sir,
In drinking unexcised gin,
And wooing fair Poissardes, sir.

IVRY. (1824.)

A SONG OF THE HUGUENOTS.

Now glory to the Lord of Hosts, from whom all glories are!
And glory to our Sovereign Liege, King Henry of Navarre!
Now let there be the merry sound of music and of dance,
Through thy corn-fields green, and sunny vines, oh pleasant land of France!
And thou, Rochelle, our own Rochelle, proud city of the waters,
Again let rapture light the eyes of all thy mourning daughters.
As thou wert constant in our ills, be joyous in our joy,
For cold, and stiff, and still are they who wrought thy walls annoy.
Hurrah! Hurrah! a single field hath turned the chance of war,
Hurrah! Hurrah! for Ivry, and Henry of Navarre.

Oh! how our hearts were beating, when, at the dawn of day,
We saw the army of the League drawn out in long array;
With all its priest-led citizens, and all its rebel-peers,
And Appenzel's stout infantry, and Egmont's Flemish spears.
There rode the brood of false Lorraine, the curses of our land;
And dark Mayenne was in the midst, a truncheon in his hand:
And, as we looked on them, we thought of Seine's empurpled flood,

And good Coligni's hoary hair all dabbled with his blood;
And we cried unto the living God, who rules the fate of war,
To fight for his own holy name, and Henry of Navarre.

The King is come to marshal us, in all his armour drest,
And he has bound a snow-white plume upon his gallant crest.
He looked upon his people, and a tear was in his eye;
He looked upon the traitors, and his glance was stern and high.
Right graciously he smiled on us, as rolled from wing to wing,
Down all our line, a deafening shout, "God save our Lord the King."
"An if my standard-bearer fall, as fall full well he may,
"For never saw I promise yet of such a bloody fray,
"Press where ye see my white plume shine, amidst the ranks of war,
"And be your oriflamme to-day the helmet of Navarre."

Hurrah! the foes are moving. Hark to the mingled din
Of fife, and steed, and trump, and drum, and roaring culverin.
The fiery Duke is pricking fast across Saint André's plain,
With all the hireling chivalry of Guelders and Almayne.
Now by the lips of those ye love, fair gentlemen of France,
Charge for the golden lilies, — upon them with the lance.
A thousand spurs are striking deep, a thousand spears in rest,
A thousand knights are pressing close behind the snow-white crest;
And in they burst, and on they rushed, while, like a guiding star,
Amidst the thickest carnage blazed the helmet of Navarre.

Now, God be praised, the day is ours. Mayenne hath turned his rein.
D'Aumale hath cried for quarter. The Flemish count is slain.

Their ranks are breaking like thin clouds before a Biscay gale;
The field is heaped with bleeding steeds, and flags, and cloven mail.
And then we thought on vengeance, and, all along our van,
"Remember Saint Bartholomew," was passed from man to man.
But out spake gentle Henry, "No Frenchman is my foe:
"Down, down, with every foreigner, but let your brethren go."
Oh! was there ever such a knight, in friendship or in war,
As our Sovereign Lord, King Henry, the soldier of Navarre?

Right well fought all the Frenchmen who fought for France to-day;
And many a lordly banner God gave them for a prey.
But we of the religion have borne us best in fight;
And the good Lord of Rosny hath ta'en the cornet white.
Our own true Maximilian the cornet white hath ta'en,
The cornet white with crosses black, the flag of false Lorraine.
Up with it high; unfurl it wide; that all the host may know
How God hath humbled the proud house which wrought his church such woe.
Then on the ground, while trumpets sound their loudest point of war,
Fling the red shreds, a footcloth meet for Henry of Navarre.

Ho! maidens of Vienna; ho! matrons of Lucerne;
Weep, weep, and rend your hair for those who never shall return.
Ho! Philip, send, for charity, thy Mexican pistoles,
That Antwerp monks may sing a mass for thy poor spearmen's souls.
Ho! gallant nobles of the League, look that your arms be bright;
Ho! burghers of Saint Genevieve, keep watch and ward to-night

For our God hath crushed the tyrant, our God hath raised
the slave,
And mocked the counsel of the wise, and the valour of the
brave :
Then glory to his holy name, from whom all glories are ;
And glory to our Sovereign Lord, King Henry of Navarre.

THE BATTLE OF MONCONTOUR. (1824.)

Oh, weep for Moncontour! Oh! weep for the hour
When the children of darkness and evil had power,
When the horsemen of Valois triumphantly trod
On the bosoms that bled for their rights and their God.

Oh, weep for Moncontour! Oh! weep for the slain,
Who for faith and for freedom lay slaughtered in vain:
Oh, weep for the living, who linger to bear
The renegade's shame, or the exile's despair.

One look, one last look, to our cots and our towers,
To the rows of our vines, and the beds of our flowers,
To the church where the bones of our fathers decayed,
Where we fondly had deemed that our own would be laid.

Alas! we must leave thee, dear desolate home,
To the spearmen of Uri, the shavelings of Rome,
To the serpent of Florence, the vulture of Spain,
To the pride of Anjou, and the guile of Lorraine.

Farewell to thy fountains, farewell to thy shades,
To the song of thy youths, and the dance of thy maids,
To the breath of thy gardens, the hum of thy bees,
And the long waving line of the blue Pyrenees.

Farewell, and forever. The priest and the slave
May rule in the halls of the free and the brave.
Our hearths we abandon; our lands we resign;
But, Father, we kneel to no altar but thine

SONGS OF THE CIVIL WAR.

I. THE BATTLE OF NASEBY, BY OBADIAH BIND-THEIR-KINGS-IN-CHAINS-AND-THEIR-NOBLES-WITH-LINKS-OF-IRON, SERJEANT IN IRETON'S REGIMENT. (1824.)

Oh! wherefore come ye forth, in triumph from the North,
With your hands, and your feet, and your raiment all red?
And wherefore doth your rout send forth a joyous shout?
And whence be the grapes of the wine-press which ye tread?

Oh evil was the root, and bitter was the fruit,
And crimson was the juice of the vintage that we trod;
For we trampled on the throng of the haughty and the strong,
Who sate in the high places, and slew the saints of God.

It was about the noon of a glorious day of June,
That we saw their banners dance, and their cuirasses shine;
And the Man of Blood was there, with his long essenced hair,
And Astley, and Sir Marmaduke, and Rupert of the Rhine.

Like a servant of the Lord, with his Bible and his sword,
The General rode along us to form us to the fight,
When a murmuring sound broke out, and swelled into a shout,
Among the godless horsemen upon the tyrant's right.

And hark! like the roar of the billows on the shore,
The cry of battle rises along their charging line!
For God! for the Cause! for the Church, for the Laws!
For Charles King of England, and Rupert of the Rhine!

The furious German comes, with his clarions and his drums,
His bravoes of Alsatia, and pages of Whitehall;
They are bursting on our flanks. Grasp your pikes, close your ranks;
For Rupert never comes but to conquer or to fall.

They are here! They rush on! We are broken! We are gone!
Our left is borne before them like stubble on the blast.
O Lord, put forth thy might! O Lord, defend the right!
Stand back to back, in God's name, and fight it to the last.

Stout Skippon hath a wound; the centre hath given ground:
Hark! hark! — What means the trampling of horsemen on our rear?
Whose banner do I see, boys? 'T is he, thank God, 't is he, boys.
Bear up another minute: brave Oliver is here.

Their heads all stooping low, their points all in a row,
Like a whirlwind on the trees, like a deluge on the dykes,
Our cuirassiers have burst on the ranks of the Accurst,
And at a shock have scattered the forest of his pikes.

Fast, fast, the gallants ride, in some safe nook to hide
Their coward heads, predestined to rot on Temple Bar:
And he — he turns, he flies: — shame on those cruel eyes
That bore to look on torture, and dare not look on war.

Ho! comrades, scour the plain; and, ere ye strip the slain,
First give another stab to make your search secure,
Then shake from sleeves and pockets their broad-pieces and lockets,
The token of the wanton, the plunder of the poor.

Fools! your doublets shone with gold, and your hearts were
gay and bold,
When you kissed your lily hands to your lemans to-day;
And to-morrow shall the fox, from her chambers in the
rocks,
Lead forth her tawny cubs to howl above the prey.

Where be your tongues that late mocked at heaven and hell
and fate,
And the fingers that once were so busy with your blades,
Your perfumed satin clothes, your catches and your oaths,
Your stage-plays and your sonnets, your diamonds and
your spades?

Down, down, forever down with the mitre and the crown,
With the Belial of the Court, and the Mammon of the
Pope;
There is woe in Oxford Halls; there is wail in Durham's
Stalls:
The Jesuit smites his bosom: the Bishop rends his cope.

And She of the seven hills shall mourn her children's ills,
And tremble when she thinks on the edge of England's
sword;
And the Kings of earth in fear shall shudder when they
hear
What the hand of God hath wrought for the Houses and
the Word.

HERE warlike coblers railed from tops of casks
At lords and love-locks, monarchy and masques.
There many a graceless page blaspheming reeled,
From his dear cards and bumpers, to the field:
The famished rooks, impatient of delay,
Gnaw their cogged dice and curse the lingering prey:
His sad Andromache, with fruitless care,
Paints her wan lips and braids her borrowed hair:
For Church and King he quits his favourite arts,
Forsakes his Knaves, forsakes his Queen of Hearts:
For Church and King he burns to stain with gore
His doublet, stained with nought but sack before.

From a MS. Poem.

II. THE CAVALIER'S MARCH TO LONDON. (1824.)

To horse! to horse! brave Cavaliers!
To horse for Church and Crown!
Strike, strike your tents! snatch up your spears!
And ho for London town!
The imperial harlot, doomed a prey
To our avenging fires,
Sends up the voice of her dismay
From all her hundred spires.

The Strand resounds with maidens' shrieks,
The 'Change with merchants' sighs,
And blushes stand on brazen cheeks,
And tears in iron eyes;
And, pale with fasting and with fright,
Each Puritan Committee
Hath summoned forth to prayer and fight
The Roundheads of the City.

And soon shall London's sentries hear
The thunder of our drum,
And London's dames, in wilder fear,
Shall cry, Alack! They come!

Fling the fascines; — tear up the spikes
And forward, one and all.
Down, down with all their train-band pikes,
Down with their mud-built wall.

Quarter? — Foul fall your whining noise,
Ye recreant spawn of fraud!
No quarter! Think on Strafford, boys.
No quarter! Think on Laud.
What ho! The craven slaves retire.
On! Trample them to mud,
No quarter! — Charge. — No quarter! — Fire.
No quarter! — Blood! — Blood! — Blood!

Where next? In sooth there lacks no witch,
Brave lads, to tell us where,
Sure London's sons be passing rich,
Her daughters wondrous fair:
And let that dastard be the theme
Of many a board's derision,
Who quails for sermon, cuff, or scream
Of any sweet Precisian.

Their lean divines, of solemn brow,
Sworn foes to throne and steeple,
From an unwonted pulpit now
Shall edify the people:
Till the tired hangman, in despair,
Shall curse his blunted shears,
And vainly pinch, and scrape, and tear,
Around their leathern ears.

We 'll hang, above his own Guildhall,
The city's grave Recorder,
And on the den of thieves we 'll fall,
Though Pym should speak to order.
In vain the lank-haired gang shall try
To cheat our martial law;
In vain shall Lenthall trembling cry
That strangers must withdraw.

Of bench and woolsack, tub and chair,
We 'll build a glorious pyre,
And tons of rebel parchment there
Shall crackle in the fire.
With them shall perish, cheek by jowl,
Petition, psalm, and libel,
The Colonel's canting muster-roll,
The Chaplain's dog-eared bible.

We 'll tread a measure round the blaze
Where England's pest expires,
And lead along the dance's maze
The beauties of the friars:
Then smiles in every face shall shine,
And joy in every soul.
Bring forth, bring forth the oldest wine,
And crown the largest bowl.

And as with nod and laugh ye sip
The goblet's rich carnation,
Whose bursting bubbles seem to tip
The wink of invitation;
Drink to those names, — those glorious names, —
Those names no time shall sever, —
Drink, in a draught as deep as Thames,
Our Church and King forever!

SERMON IN A CHURCHYARD. (1825.)

Let pious Damon take his seat,
With mincing step, and languid smile,
And scatter from his 'kerchief sweet
Sabæan odours o'er the aisle;
And spread his little jewelled hand,
And smile round all the parish beauties,
And pat his curls, and smooth his band,
Meet prelude to his saintly duties.

Let the thronged audience press and stare,
Let stifled maidens ply the fan,
Admire his doctrines and his hair,
And whisper "What a good young man!"
While he explains what seems most clear,
So clearly that it seems perplexed,
I'll stay, and read my sermon here;
And skulls and bones shall be the text.

Art thou the jilted dupe of fame?
Dost thou with jealous anger pine
Whene'er she sounds some other name,
With fonder emphasis than thine?
To thee I preach: draw near; attend!
Look on these bones, thou fool, and see
Where all her scorns and favours end,
What Byron is, and thou must be.

Dost thou revere, or praise, or trust
Some clod like those that here we spurn;

Some thing that sprang like thee from dust,
  And shall like thee to dust return?
Dost thou rate statesmen, heroes, wits,
  At one sear leaf or wandering feather?
Behold the black, damp, narrow pits,
  Where they and thou must lie together

Dost thou beneath the smile or frown
  Of some vain woman bend thy knee?
Here take thy stand, and trample down
  Things that were once as fair as she.
Here rave of her ten thousand graces,
  Bosom, and lip, and eye, and chin,
While, as in scorn, the fleshless faces
  Of Hamiltons and Waldegraves grin.

Whate'er thy losses or thy gains,
  Whate'er thy projects or thy fears,
Whate'er the joys, whate'er the pains,
  That prompt thy baby smiles and tears,
Come to my school, and thou shalt learn,
  In one short hour of placid thought,
A stoicism more deep, more stern,
  Than ever Zeno's porch hath taught.

The plots and feats of those that press
  To seize on titles, wealth, or power,
Shall seem to thee a game of chess,
  Devised to pass a tedious hour.
What matters it to him who fights
  For shows of unsubstantial good,
Whether his Kings, and Queens, and Knights,
  Be things of flesh, or things of wood?

We check and take; exult and fret;
  Our plans extend, our passions rise,
Till in our ardour we forget
  How worthless is the victor's prize.
Soon fades the spell, soon comes the night:
  Say will it not be then the same,

Whether we played the black or white,
Whether we lost or won the game?

Dost thou among these hillocks stray,
O'er some dear idol's tomb to moan?
Know that thy foot is on the clay
Of hearts once wretched as thy own.
How many a father's anxious schemes,
How many rapturous thoughts of lovers,
How many a mother's cherished dreams,
The swelling turf before thee covers!

Here for the living and the dead,
The weepers and the friends they weep,
Hath been ordained the same cold bed,
The same dark night, the same long sleep;
Why shouldest thou writhe, and sob, and rave
O'er those, with whom thou soon must be?
Death his own sting shall cure — the grave
Shall vanquish its own victory.

Here learn that all the griefs and joys,
Which now torment, which now beguile,
Are children's hurts, and children's toys,
Scarce worthy of one bitter smile.
Here learn that pulpit, throne, and press,
Sword, sceptre, lyre, alike are frail,
That Science is a blind man's guess,
And History a nurse's tale.

Here learn that glory and disgrace,
Wisdom and folly, pass away,
That mirth hath its appointed space,
That sorrow is but for a day;
That all we love, and all we hate,
That all we hope, and all we fear,
Each mood of mind, each turn of fate,
Must end in dust and silence here.

TRANSLATION FROM A. V. ARNAULT

Fables: Livre v., *Fable* 16. (1826.)

—•—

Thou poor leaf, so sear and frail,
Sport of every wanton gale,
Whence, and whither, dost thou fly,
Through this bleak autumnal sky?
On a noble oak I grew,
Green, and broad, and fair to view;
But the Monarch of the shade
By the tempest low was laid.
From that time, I wander o'er
Wood and valley, hill and moor,
Wheresoe'er the wind is blowing,
Nothing caring, nothing knowing:
Thither go I, whither goes
Glory's laurel, Beauty's rose.

—— De ta tige détachée,
Pauvre feuille desséchée,
Où vas-tu ? — Je n'en sais rien.
L'orage a frappé le chêne
Qui seul était mon soutien.
De son inconstante haleine,
Le zéphyr ou l'aquilon
Depuis ce jour me promène
De la forêt à la plaine,
De la montagne au vallon.
Je vais où le vent me mène,
Sans me plaindre ou m'effrayer,
Je vais où va toute chose,
Où va la feuille de rose
Et la feuille de laurier.

DIES IRÆ. (1826.)

On that great, that awful day,
This vain world shall pass away.
Thus the sibyl sang of old,
Thus hath Holy David told.
There shall be a deadly fear
When the Avenger shall appear,
And unveiled before his eye
All the works of man shall lie.
Hark! to the great trumpet's tones
Pealing o'er the place of bones:
Hark! it waketh from their bed
All the nations of the dead, —
In a countless throng to meet,
At the eternal judgment seat.
Nature sickens with dismay,
Death may not retain his prey;
And before the Maker stand
All the creatures of his hand.
The great book shall be unfurled,
Whereby God shall judge the world.
What was distant shall be near,
What was hidden shall be clear.
To what shelter shall I fly?
To what guardian shall I cry?
Oh, in that destroying hour,
Source of goodness, Source of power,
Show thou, of thine own free grace,
Help unto a helpless race.
Though I plead not at thy throne
Aught that I for thee have done,

Do not thou unmindful be,
Of what thou hast borne for me:
Of the wandering, of the scorn,
Of the scourge, and of the thorn.
Jesus, hast *thou* borne the pain,
And hath all been borne in vain?
Shall thy vengeance smite the head
For whose ransom thou hast bled?
Thou, whose dying blessing gave
Glory to a guilty slave:
Thou, who from the crew unclean
Did'st release the Magdalene:
Shall not mercy vast and free,
Evermore be found in thee?
Father, turn on me thine eyes,
See my blushes, hear my cries;
Faint though be the cries I make,
Save me, for thy mercy's sake,
From the worm, and from the fire,
From the torments of thine ire.
Fold me with the sheep that stand
Pure and safe at thy right hand.
Hear thy guilty child implore thee,
Rolling in the dust before thee.
Oh the horrors of that day!
When this frame of sinful clay,
Starting from its burial place,
Must behold thee face to face.
Hear and pity, hear and aid,
Spare the creatures thou hast made.
Mercy, mercy, save, forgive:
Oh, who shall look on thee and live?

THE MARRIAGE OF TIRZAH AND AHIRAD. (1827.)

GENESIS VI. 3.

It is the dead of night:
Yet more than noonday light
Beams far and wide from many a gorgeous hall.
Unnumbered harps are tinkling,
Unnumbered lamps are twinkling
In the great city of the fourfold wall.
By the brazen castle's moat,
The sentry hums a livelier note.
The ship-boy chaunts a shriller lay
From the galleys in the bay.
Shout, and laugh, and hurrying feet
Sound from mart and square and street,
From the breezy laurel shades,
From the granite colonnades,
From the golden statue's base,
From the stately market-place,
Where, upreared by captive hands,
The great Tower of Triumph stands,
All its pillars in a blaze
With the many-coloured rays,
Which lanthorns of ten thousand dyes
Shed on ten thousand panoplies.
But closest is the throng,
And loudest is the song,
In that sweet garden by the river's side,
The abyss of myrtle bowers,

The wilderness of flowers,
Where Cain hath built the palace of his pride.
Such palace ne'er shall be again
Among the dwindling race of men.
From all its threescore gates the light
Of gold and steel afar was thrown;
Two hundred cubits rose in height
The outer wall of polished stone.
On the top was ample space
For a gallant chariot race.
Near either parapet a bed
Of the richest mould was spread,
Where amidst flowers of every scent and hue
Rich orange-trees, and palms, and giant cedars grew.

In the mansion's public court
All is revel, song, and sport;
For there, till morn shall tint the east,
Menials and guards prolong the feast.
The boards with painted vessels shine;
The marble cisterns foam with wine.
A hundred dancing girls are there
With zoneless waists and streaming hair;
And countless eyes with ardour gaze,
And countless hands the measure beat,
As mix and part in amorous maze
Those floating arms and bounding feet.
But none of all the race of Cain,
Save those whom he hath deigned to grace
With yellow robe and sapphire chain,
May pass beyond that outer space.
For now within the painted hall
The Firstborn keeps high festival.
Before the glittering valves all night
Their post the chosen captains hold.
Above the portal's stately height
The legend flames in lamps of gold:
"In life united and in death
"May Tirzah and Ahirad be;

"The bravest he of all the sons of Seth,
"Of all the house of Cain the loveliest she."

Through all the climates of the earth
This night is given to festal mirth.
The long continued war is ended.
The long divided lines are blended.
Ahirad's bow shall now no more
Make fat the wolves with kindred gore.
The vultures shall expect in vain
Their banquet from the sword of Cain.
Without a guard the herds and flocks
Along the frontier moors and rocks
From eve to morn may roam;
Nor shriek, nor shout, nor reddened sky,
Shall warn the startled hind to fly
From his beloved home.
Nor to the pier shall burghers crowd
With straining necks and faces pale,
And think that in each flitting cloud
They see a hostile sail.
The peasant without fear shall guide
Down smooth canal or river wide
His painted bark of cane,
Fraught, for some proud bazaar's arcades,
With chestnuts from his native shades,
And wine, and milk, and grain.
Search round the peopled globe to-night,
Explore each continent and isle,
There is no door without a light,
No face without a smile.
The noblest chiefs of either race,
From north and south, from west and east,
Crowd to the painted hall to grace
The pomp of that atoning feast.
With widening eyes and labouring breath
Stand the fair-haired sons of Seth,
As bursts upon their dazzled sight
The endless avenue of light,

The bowers of tulip, rose, and palm,
The thousand cressets fed with balm,
The silken vests, the boards piled high
With amber, gold, and ivory,
The crystal founts whence sparkling flow
The richest wines o'er beds of snow,
The walls where blaze in living dyes
The king's three hundred victories.
The heralds point the fitting seat
To every guest in order meet,
And place the highest in degree
Nearest th' imperial canopy.
Beneath its broad and gorgeous fold,
With naked swords and shields of gold,
Stood the seven princes of the tribes of Nod.
Upon an ermine carpet lay
Two tiger cubs in furious play,
Beneath the emerald throne where sat the signed of God.

Over that ample forehead white
The thousandth year returneth.
Still, on its commanding height,
With a fierce and blood-red light,
The fiery token burneth.
Wheresoe'er that mystic star
Blazeth in the van of war,
Back recoil before its ray
Shield and banner, bow and spear,
Maddened horses break away
From the trembling charioteer.
The fear of that stern king doth lie
On all that live beneath the sky;
All shrink before the mark of his despair,
The seal of that great curse which he alone can bear.

Blazing in pearls and diamonds' sheen,
Tirzah, the young Ahirad's bride,
Of humankind the destined queen,
Sits by her great forefather's side.

The jetty curls, the forehead high,
The swanlike neck, the eagle face,
The glowing cheek, the rich dark eye,
Proclaim her of the elder race.
With flowing locks of auburn hue,
And features smooth and eye of blue,
Timid in love as brave in arms,
The gentle heir of Seth askance
Snatches a bashful, ardent glance
At her majestic charms;
Blest when across that brow high musing flashes
A deeper tint of rose,
Thrice blest when from beneath the silken lashes
Of her proud eye she throws
The smile of blended fondness and disdain
Which marks the daughters of the house of Cain.

All hearts are light around the hall
Save his who is the lord of all.
The painted roofs, the attendant train,
The lights, the banquet, all are vain.
He sees them not. His fancy strays
To other scenes and other days.
A cot by a lone forest's edge,
A fountain murmuring through the trees,
A garden with a wild flower hedge,
Whence sounds the music of the bees,
A little flock of sheep at rest
Upon a mountain's swarthy breast.
On his rude spade he seems to lean
Beside the well remembered stone,
Rejoicing o'er the promise green
Of the first harvest man hath sown.
He sees his mother's tears;
His father's voice he hears,
Kind as when first it praised his youthful skill.
And soon a seraph-child,
In boyish rapture wild,
With a light crook comes bounding from the hill,

Kisses his hands, and strokes his face,
And nestles close in his embrace.
In his adamantine eye
None might discern his agony;
But they who had grown hoary next his side,
And read his stern dark face with deepest skill,
Could trace strange meanings in that lip of pride,
Which for one moment quivered and was still.
No time for them to mark or him to feel
Those inward stings; for clarion, flute, and lyre,
And the rich voices of a countless quire,
Burst on the ear in one triumphant peal.
In breathless transport sits the admiring throng,
As sink and swell the notes of Jubal's lofty song.

"Sound the timbrel, strike the lyre,
Wake the trumpet's blast of fire,
Till the gilded arches ring.
Empire, victory, and fame,
Be ascribed unto the name
Of our father and our king.
Of the deeds which he hath done,
Of the spoils which he hath won,
Let his grateful children sing.

"When the deadly fight was fought,
When the great revenge was wrought,
When on the slaughtered victims lay
The minion stiff and cold as they,
Doomed to exile, sealed with flame,
From the west the wanderer came.
Six score years and six he strayed
A hunter through the forest shade.
The lion's shaggy jaws he tore,
To earth he smote the foaming boar,
He crushed the dragon's fiery crest,
And scaled the condor's dizzy nest;
Till hardy sons and daughters fair
Increased around his woodland lair.

Then his victorious bow unstrung
On the great bison's horn he hung.
Giraffe and elk he left to hold
The wilderness of boughs in peace,
And trained his youth to pen the fold,
To press the cream and weave the fleece.
As shrunk the streamlet in its bed,
As black and scant the herbage grew,
O'er endless plains his flocks he led
Still to new brooks and pastures new.
So strayed he till the white pavilions
Of his camp were told by millions,
Till his children's households seven
Were numerous as the stars of heaven.
Then he bade us rove no more;
And in the place that pleased him best,
On the great river's fertile shore,
He fixed the city of his rest.
He taught us then to bind the sheaves,
To strain the palm's delicious milk,
And from the dark green mulberry leaves
To cull the filmy silk.
Then first from straw-built mansions roamed
O'er flower-beds trim the skilful bees;
Then first the purple wine vats foamed
Around the laughing peasant's knees;
And olive-yards, and orchards green,
O'er all the hills of Nod were seen.

"Of our father and our king
Let his grateful children sing.
From him our race its being draws,
His are our arts, and his our laws.
Like himself he bade us be,
Proud, and brave, and fierce, and free.
True, through every turn of fate,
In our friendship and our hate.
Calm to watch, yet prompt to dare;
Quick to feel, yet firm to bear;

Only timid, only weak,
Before sweet woman's eye and cheek.
We will not serve, we will not know,
The God who is our father's foe.
In our proud cities to his name
No temples rise, no altars flame.
Our flocks of sheep, our groves of spice,
To him afford no sacrifice.
Enough that once the House of Cain
Hath courted with oblation vain
The sullen power above.
Henceforth we bear the yoke no more;
The only gods whom we adore
Are glory, vengeance, love.

"Of our father and our king
Let his grateful children sing.
What eye of living thing may brook
On his blazing brow to look?
What might of living thing may stand
Against the strength of his right hand?
First he led his armies forth
Against the Mammoths of the north,
What time they wasted in their pride
Pasture and vineyard far and wide.
Then the White River's icy flood
Was thawed with fire and dyed with blood,
And heard for many a league the sound
Of the pine forests blazing round,
And the death-howl and trampling din
Of the gigantic herd within.
From the surging sea of flame
Forth the tortured monsters came;
As of breakers on the shore
Was their onset and their roar;
As the cedar-trees of God
Stood the stately ranks of Nod.
One long night and one short day
The sword was lifted up to slay.

Then marched the first-born and his sons
O'er the white ashes of the wood,
And counted of that savage brood
Nine times nine thousand skeletons.

"On the snow with carnage red
The wood is piled, the skins are spread.
A thousand fires illume the sky;
Round each a hundred warriors lie.
But, long ere half the night was spent,
Forth thundered from the golden tent
The rousing voice of Cain.
A thousand trumps in answer rang,
And fast to arms the warriors sprang
O'er all the frozen plain.
A herald from the wealthy bay
Hath come with tidings of dismay.
From the western ocean's coast
Seth hath led a countless host.
And vows to slay with fire and sword
All who call not on the Lord.
His archers hold the mountain forts;
His light armed ships blockade the ports;
His horsemen tread the harvest down.
On twelve proud bridges he hath passed
The river dark with many a mast,
And pitched his mighty camp at last
Before the imperial town.

"On the south and on the west,
Closely was the city prest.
Before us lay the hostile powers.
The breach was wide between the towers.
Pulse and meal within were sold
For a double weight of gold.
Our mighty father hath gone forth
Two hundred marches to the north.
Yet in that extreme of ill
We stoutly kept his city still;

And swore beneath his royal wall,
Like his true sons, to fight and fall.

Hark, hark, to gong and horn,
Clarion, and fife, and drum,
The morn, the fortieth morn,
Fixed for the great assault is come.
Between the camp and city spreads
A waving sea of helmed heads.
From the royal car of Seth
Was hung the blood-red flag of death:
At sight of that thrice-hallowed sign
Wide flew at once each banner's fold;
The captains clashed their arms of gold;
The war cry of Elohim rolled
Far down their endless line.
On the northern hills afar
Pealed an answering note of war.
Soon the dust in whirlwinds driven,
Rushed across the northern heaven.
Beneath its shroud came thick and loud
The tramp as of a countless crowd;
And at intervals were seen
Lance and hauberk glancing sheen;
And at intervals were heard
Charger's neigh and battle word.

"Oh what a rapturous cry
From all the city's thousand spires arose,
With what a look the hollow eye
Of the lean watchman glared upon the foes,
With what a yell of joy the mother pressed
The moaning baby to her withered breast,
When through the swarthy cloud that veiled the plain
Burst on his children's sight the flaming brow of Cain!"

There paused perforce that noble song;
For from all the joyous throng,

Burst forth a rapturous shout which drowned
Singer's voice and trumpet's sound.
Thrice that stormy clamour fell,
Thrice rose again with mightier swell.
The last and loudest roar of all
Had died along the painted wall.
The crowd was hushed; the minstrel train
Prepared to strike the chords again;
When on each ear distinctly smote
A low and wild and wailing note.
It moans again. In mute amaze
Menials, and guests, and harpers gaze.
They look above, beneath, around,
No shape doth own that mournful sound.
It comes not from the tuneful quire;
It comes not from the feasting peers;
There is no tone of earthly lyre
So soft, so sad, so full of tears.
Then a strange horror came on all
Who sate at that high festival.
The far famed harp, the harp of gold,
Dropped from Jubal's trembling hold.
Frantic with dismay the bride
Clung to her Ahirad's side.
And the corpse-like hue of dread
Ahirad's haughty face o'erspread.
Yet not even in that agony of awe
Did the young leader of the fair-haired race
From Tirzah's shuddering grasp his hand withdraw,
Or turn his eyes from Tirzah's livid face.
The tigers to their lord retreat,
And crouch and whine beneath his feet.
Prone sink to earth the golden shielded seven.
All hearts are cowed save his alone
Who sits upon the emerald throne;
For he hath heard Elohim speak from heaven.
Still thunders in his ear the peal;
Still blazes on his front the seal:

And on the soul of the proud king
No terror of created thing
From sky, or earth, or hell, hath power
Since that unutterable hour.

He rose to speak, but paused, and listening stood,
Not daunted, but in sad and curious mood,
With knitted brow, and searching eye of fire.
A deathlike silence sank on all around,
And through the boundless space was heard no sound,
Save the soft tones of that mysterious lyre.
Broken, faint, and low,
At first the numbers flow.
Louder, deeper, quicker, still
Into one fierce peal they swell,
And the echoing palace fill
With a strange funereal yell.
A voice comes forth. But what, or where?
On the earth, or in the air?
Like the midnight winds that blow
Round a lone cottage in the snow,
With howling swell and sighing fall,
It wails along the trophied hall.
In such a wild and dreary moan
The watches of the Seraphim
Poured out all night their plaintive hymn
Before the eternal throne.
Then, when from many an heavenly eye
Drops as of earthly pity fell
For her who had aspired too high,
For him who loved too well.
When, stunned by grief, the gentle pair
From the nuptial garden fair,
Linked in a sorrowful caress,
Strayed through the untrodden wilderness;
And close behind their footsteps came
The desolating sword of flame,
And drooped the cedared alley's pride,
And fountains shrank, and roses died.

"Rejoice, O Son of God, rejoice,"
Sang that melancholy voice, —
"Rejoice, the maid is fair to see;
The bower is decked for her and thee;
The ivory lamps around it throw
A soft and pure and mellow glow.
Where'er the chastened lustre falls
On roof or cornice, floor or walls,
Woven of pink and rose appear
Such words as love delights to hear.
The breath of myrrh, the lute's soft sound.
Float through the moonlight galleries round.
O'er beds of violet and through groves of spice,
Lead thy proud bride into the nuptial bower;
For thou hast bought her with a fearful price,
And she hath dowered thee with a fearful dower.
The price is life. The dower is death.
Accursed loss! Accursed gain!
For her thou givest the blessedness of Seth,
And to thine arms she brings the curse of Cain
Round the dark curtains of the fiery throne
Pauses awhile the voice of sacred song:
From all the angelic ranks goes forth a groan,
'How long, O Lord, how long?'
The still small voice makes answer, 'Wait and see,
Oh sons of glory, what the end shall be.'

"But, in the outer darkness of the place
Where God hath shown his power without his grace,
Is laughter and the sound of glad acclaim, —
Loud as when, on wings of fire,
Fulfilled of his malign desire,
From Paradise the conquering serpent came.
The giant ruler of the morning star
From off his fiery bed
Lifts high his stately head,
Which Michael's sword hath marked with many a scar
At his voice the pit of hell
Answers with a joyous yell,

And flings her dusky portals wide
For the bridegroom and the bride.

"But louder still shall be the din
In the halls of Death and Sin,
When the full measure runneth o'er,
When mercy can endure no more,
When he who vainly proffers grace,
Comes in his fury to deface
The fair creation of his hand;
When from the heaven streams down amain
For forty days the sheeted rain;
And from his ancient barriers free,
With a deafening roar the sea
Comes foaming up the land.
Mother, cast thy babe aside:
Bridegroom, quit thy virgin bride:
Brother, pass thy brother by:
'T is for life, for life, ye fly.
Along the drear horizon raves
The swift advancing line of waves.
On: on: their frothy crests appear
Each moment nearer and more near.
Urge the dromedary's speed;
Spur to death the reeling steed;
If perchance ye yet may gain
The mountains that o'erhang the plain.

"Oh thou haughty land of Nod,
Hear the sentence of thy God.
Thou hast said 'Of all the hills
Whence, after autumn rains, the rills
In silver trickle down,
The fairest is that mountain white
Which intercepts the morning light
From Cain's imperial town.
On its first and gentlest swell
Are pleasant halls where nobles dwell;
And marble porticoes are seen

Peeping through terraced gardens green.
Above are olives, palms, and vines;
And higher yet the dark-blue pines;
And highest on the summit shines
The crest of everlasting ice.
Here let the God of Abel own
That human art hath wonders shown
Beyond his boasted paradise.'

"Therefore on that proud mountain's crown
Thy few surviving sons and daughters
Shall see their latest sun go down
Upon a boundless waste of waters.
None salutes and none replies;
None heaves a groan or breathes a prayer;
They crouch on earth with tearless eyes,
And clenched hands and bristling hair.
The rain pours on: no star illumes
The blackness of the roaring sky.
And each successive billow booms
Nigher still and still more nigh.
And now upon the howling blast
The wreaths of spray come thick and fast;
And a great billow by the tempest curled
Falls with a thundering crash; and all is o'er.
And what is left of all this glorious world?
A sky without a beam, a sea without a shore.

"Oh thou fair land, where from their starry home
Cherub and seraph oft delight to roam;
Thou city of the thousand towers,
Thou palace of the golden stairs,
Ye gardens of perennial flowers,
Ye moated gates, ye breezy squares;
Ye parks amidst whose branches high
Oft peers the squirrel's sparkling eye;
Ye vineyards, in whose trellised shade
Pipes many a youth to many a maid;
Ye ports where rides the gallant ship;

Ye marts where wealthy burghers meet;
Ye dark green lanes which know the trip
Of woman's conscious feet;
Ye grassy meads where, when the day is done,
The shepherd pens his fold;
Ye purple moors on which the setting sun
Leaves a rich fringe of gold;
Ye wintry deserts where the larches grow;
Ye mountains on whose everlasting snow
No human foot hath trod;
Many a fathom shall ye sleep
Beneath the grey and endless deep,
In the great day of the revenge of God."

THE COUNTRY CLERGYMAN'S TRIP TO CAMBRIDGE.

AN ELECTION BALLAD. (1827.)

As I sate down to breakfast in state,
At my living of Tithing-cum-Boring,
With Betty beside me to wait,
Came a rap that almost beat the door in.
I laid down my basin of tea,
And Betty ceased spreading the toast,
"As sure as a gun, sir," said she,
"That must be the knock of the post."

A letter — and free — bring it here —
I have no correspondent who franks.
No! yes! Can it be? Why, my dear,
'T is our glorious, our Protestant Bankes.
"Dear sir, as I know you desire
That the Church should receive due protection,
I humbly presume to require
Your aid at the Cambridge election.

"It has lately been brought to my knowledge,
That the Ministers fully design
To suppress each cathedral and college,
And eject every learned divine.
To assist this detestable scheme
Three nuncios from Rome are come over;
They left Calais on Monday by steam,
And landed to dinner at Dover.

"An army of grim Cordeliers,
Well furnished with relics and vermin,
Will follow, Lord Westmoreland fears,
To effect what their chiefs may determine.
Lollard's bower, good authorities say,
Is again fitting up for a prison;
And a wood-merchant told me to-day
'T is a wonder how faggots have risen.

"The finance scheme of Canning contains
A new Easter-offering tax;
And he means to devote all the gains
To a bounty on thumb-screws and racks.
Your living, so neat and compact —
Pray, don't let the news give you pain! —
Is promised, I know for a fact,
To an olive-faced Padre from Spain."

I read, and I felt my heart bleed,
Sore wounded with horror and pity;
So I flew, with all possible speed,
To our Protestant champion's committee.
True gentlemen, kind and well-bred!
No fleering! no distance! no scorn!
They asked after my wife who is dead,
And my children who never were born.

They then, like high-principled Tories,
Called our Sovereign unjust and unsteady,
And assailed him with scandalous stories,
Till the coach for the voters was ready.
That coach might be well called a casket
Of learning and brotherly love:
There were parsons in boot and in basket;
There were parsons below and above.

There were Sneaker and Griper, a pair
Who stick to Lord Mulesby like leeches;

A smug chaplain of plausible air,
Who writes my Lord Goslingham's speeches.
Dr. Buzz, who alone is a host,
Who, with arguments weighty as lead,
Proves six times a week in the Post
That flesh somehow differs from bread.

Dr. Nimrod, whose orthodox toes
Are seldom withdrawn from the stirrup;
Dr. Humdrum, whose eloquence flows,
Like droppings of sweet poppy syrup;
Dr. Rosygill puffing and fanning,
And wiping away perspiration;
Dr. Humbug, who proved Mr. Canning
The beast in St. John's Revelation.

A layman can scarce form a notion
Of our wonderful talk on the road;
Of the learning, the wit, and devotion,
Which almost each syllable showed:
Why divided allegiance agrees
So ill with our free constitution;
How Catholics swear as they please,
In hope of the priest's absolution;

How the Bishop of Norwich had bartered
His faith for a legate's commission;
How Lyndhurst, afraid to be martyred,
Had stooped to a base coalition;
How Papists are cased from compassion
By bigotry, stronger than steel;
How burning would soon come in fashion,
And how very bad it must feel.

We were all so much touched and excited
By a subject so direly sublime,
That the rules of politeness were slighted,
And we all of us talked at a time;

And in tones, which each moment grew louder,
Told how we should dress for the show,
And where we should fasten the powder,
And if we should bellow or no.

Thus from subject to subject we ran,
And the journey passed pleasantly o'er,
Till at last Dr. Humdrum began;
From that time I remember no more.
At Ware he commenced his prelection,
In the dullest of clerical drones;
And when next I regained recollection
We were rumbling o'er Trumpington stones.

SONG. (1827.)

O STAY, Madonna! stay;
'T is not the dawn of day
That marks the skies with yonder opal streak:
The stars in silence shine;
Then press thy lips to mine,
And rest upon my neck thy fervid cheek.

O sleep, Madonna! sleep;
Leave me to watch and weep
O'er the sad memory of departed joys,
O'er hope's extinguished beam,
O'er fancy's vanished dream,
O'er all that nature gives and man destroys.

O wake, Madonna! wake;
Even now the purple lake
Is dappled o'er with amber flakes of light;
A glow is on the hill,
And every trickling rill
In golden threads leaps down from yonder height.

O fly, Madonna! fly,
Lest day and envy spy
What only love and night may safely know:
Fly, and tread softly, dear!
Lest those who hate us hear
The sound of thy light footsteps as they go.

THE DELIVERANCE OF VIENNA.

TRANSLATED FROM VINCENZIO DA FILICAIA.

(*Published in the "Winter's Wreath," Liverpool*, 1828.)

"Le corde d'oro elette," &c.

THE chords, the sacred chords of gold,
Strike, O Muse, in measure bold;
And frame a sparkling wreath of joyous songs
For that great God to whom revenge belongs.
Who shall resist his might,
Who marshals for the fight
Earthquake and thunder, hurricane and flame?
He smote the haughty race
Of unbelieving Thrace,
And turned their rage to fear, their pride to shame.
He looked in wrath from high,
Upon their vast array;
And, in the twinkling of an eye,
Tambour, and trump, and battle-cry,
And steeds, and turbaned infantry,
Passed like a dream away.
Such power defends the mansions of the just:
But, like a city without walls,
The grandeur of the mortal falls
Who glories in his strength, and makes not God his trust.

The proud blasphemers thought all earth their own;
They deemed that soon the whirlwind of their ire
Would sweep down tower and palace, dome and spire,
The Christian altars and the Augustan throne.

And soon, they cried, shall Austria bow
To the dust her lofty brow.
The princedoms of Almayne
Shall wear the Phrygian chain;
In humbler waves shall vassal Tiber roll;
And Rome, a slave forlorn,
Her laurelled tresses shorn,
Shall feel our iron in her inmost soul.
Who shall bid the torrent stay?
Who shall bar the lightning's way?
Who arrest the advancing van
Of the fiery Ottoman?

As the curling smoke wreaths fly
When fresh breezes clear the sky,
Passed away each swelling boast
Of the misbelieving host.
From the Hebrus rolling far
Came the murky cloud of war,
And in shower and tempest dread
Burst on Austria's fenceless head.
But not for vaunt or threat
Didst Thou, O Lord, forget
The flock so dearly bought, and loved so well.
Even in the very hour
Of guilty pride and power
Full on the circumcised Thy vengeance fell.
Then the fields were heaped with dead,
Then the streams with gore were red,
And every bird of prey, and every beast,
From wood and cavern thronged to Thy great feast.

What terror seized the fiends obscene of Nile!
How wildly, in his place of doom beneath,
Arabia's lying prophet gnashed his teeth,
And cursed his blighted hopes and wasted guile!
When, at the bidding of Thy sovereign might,
Flew on their destined path
Thy messengers of wrath,

Riding on storms and wrapped in deepest night.
The Phthian mountains saw,
And quaked with mystic awe:
The proud Sultana of the Straights bowed down
Her jewelled neck and her embattled crown.
The miscreants, as they raised their eyes
Glaring defiance on Thy skies,
Saw adverse winds and clouds display
The terrors of their black array; —
Saw each portentous star
Whose fiery aspect turned of yore to flight
The iron chariots of the Canaanite
Gird its bright harness for a deadlier war.

Beneath Thy withering look
Their limbs with palsy shook;
Scattered on earth the crescent banners lay;
Trembled with panic fear
Sabre and targe and spear,
Through the proud armies of the rising day.
Faint was each heart, unnerved each hand;
And, if they strove to charge or stand,
Their efforts were as vain
As his who, scared in feverish sleep
By evil dreams, essays to leap,
Then backward falls again.
With a crash of wild dismay,
Their ten thousand ranks gave way;
Fast they broke, and fast they fled;
Trampled, mangled, dying, dead,
Horse and horseman mingled lay;
Till the mountains of the slain
Raised the valleys to the plain.
Be all the glory to Thy name divine!
The swords were ours; the arm, O Lord, was Thine.

Therefore to Thee, beneath whose footstool wait
The powers which erring man calls Chance and Fate,
To Thee who hast laid low

The pride of Europe's foe,
And taught Byzantium's sullen lords to fear,
I pour my spirit out
In a triumphant shout,
And call all ages and all lands to hear.
Thou who evermore endurest,
Loftiest, mightiest, wisest, purest,
Thou whose will destroys or saves,
Dread of tyrants, hope of slaves,
The wreath of glory is from Thee,
And the red sword of victory.

There where exulting Danube's flood
Runs stained with Islam's noblest blood
From that tremendous field,
There where in mosque the tyrants met,
And from the crier's minaret
Unholy summons pealed,
Pure shrines and temples now shall be
Decked for a worship worthy Thee.
To Thee thy whole creation pays
With mystic sympathy its praise,
The air, the earth, the seas:
The day shines forth with livelier beam;
There is a smile upon the stream,
An anthem on the breeze.
Glory, they cry, to Him whose might
Hath turned the barbarous foe to flight,
Whose arm protects with power divine
The city of his favoured line.
The caves, the woods, the rocks, repeat the sound;
The everlasting hills roll the long echoes round.

But, if Thy rescued church may dare
Still to beseige Thy throne with prayer,
Sheathe not, we implore Thee, Lord,
Sheathe not Thy victorious sword.
Still Panonia pines away,
Vassal of a double sway:

Still Thy servants groan in chains,
Still the race which hates Thee reigns:
Part the living from the dead:
Join the members to the head:
Snatch Thine own sheep from yon fell monster's hold;
Let one kind shepherd rule one undivided fold.

He is the victor, only he
Who reaps the fruits of victory.
We conquered once in vain,
When foamed the Ionian waves with gore,
And heaped Lepanto's stormy shore
With wrecks and Moslem slain.
Yet wretched Cyprus never broke
The Syrian tyrant's iron yoke.
Shall the twice vanquished foe
Again repeat his blow?
Shall Europe's sword be hung to rust in peace?
No — let the red-cross ranks
Of the triumphant Franks
Bear swift deliverance to the shrines of Greece,
And in her inmost heart let Asia feel
The avenging plagues of Western fire and steel.

O God! for one short moment raise
The veil which hides those glorious days.
The flying foes I see Thee urge
Even to the river's headlong verge.
Close on their rear the loud uproar
Of fierce pursuit from Ister's shore
Comes pealing on the wind;
The Rab's wild waters are before,
The Christian sword behind.
Sons of perdition, speed your flight.
No earthly spear is in the rest;
No earthly champion leads to fight
The warriors of the West.
The Lord of Hosts asserts His old renown,
Scatters, and smites, and slays, and trauples down.

Fast, fast, beyond what mortal tongue can say,
Or mortal fancy dream,
He rushes on his prey:
Till, with the terrors of the wondrous theme
Bewildered and appalled, I cease to sing,
And close my dazzled eye, and rest my wearied wing.

THE ARMADA. (1832.)

A FRAGMENT.

ATTEND, all ye who list to hear our noble England's praise;
I tell of the thrice famous deeds she wrought in ancient days,
When that great fleet invincible against her bore in vain
The richest spoils of Mexico, the stoutest hearts of Spain.

It was about the lovely close of a warm summer day,
There came a gallant merchant-ship full sail to Plymouth Bay;
Her crew hath seen Castile's black fleet, beyond Aurigny's isle,
At earliest twilight, on the waves lie heaving many a mile.
At sunrise she escaped their van, by God's especial grace;
And the tall Pinta, till the noon, had held her close in chase.
Forthwith a guard at every gun was placed along the wall;
The beacon blazed upon the roof of Edgecumbe's lofty hall;
Many a light fishing-bark put out to pry along the coast,
And with loose rein and bloody spur rode inland many a post.
With his white hair unbonneted, the stout old sheriff comes;
Behind him march the halberdiers; before him sound the drums;
His yeomen round the market cross make clear an ample space;

For there behoves him to set up the standard of Her Grace.
And haughtily the trumpets peal, and gaily dance the bells,
As slow upon the labouring wind the royal blazon swells.
Look how the Lion of the sea lifts up his ancient crown,
And underneath his deadly paw treads the gay lilies down.
So stalked he when he turned to flight, on that famed Picard field,
Bohemia's plume, and Genoa's bow, and Cæsar's eagle shield.
So glared he when at Agincourt in wrath he turned to bay,
And crushed and torn beneath his claws the princely hunters lay.
Ho! strike the flagstaff deep, sir Knight: ho! scatter flowers, fair maids:
Ho! gunners, fire a loud salute: ho! gallants, draw your blades:
Thou sun, shine on her joyously; ye breezes, waft her wide;
Our glorious SEMPER EADEM, the banner of our pride.
The freshening breeze of eve unfurled that banner's massy fold;
The parting gleam of sunshine kissed that haughty scroll of gold;
Night sank upon the dusky beach, and on the purple sea,
Such night in England ne'er had been, nor e'er again shall be.
From Eddystone to Berwick bounds, from Lynn to Milford Bay,
That time of slumber was as bright and busy as the day;
For swift to east and swift to west the ghastly war-flame spread,
High on St. Michael's Mount it shone: it shone on Beachy Head.
Far on the deep the Spaniard saw, along each southern shire,
Cape beyond cape, in endless range, those twinkling points of fire.
The fisher left his skiff to rock on Tamar's glittering waves:

The rugged miners poured to war from Mendip's sunless caves :
O'er Longleat's towers, o'er Cranbourne's oaks, the fiery herald flew :
He roused the shepherds of Stonehenge, the rangers of Beaulieu.
Right sharp and quick the bells all night rang out from Bristol town,
And ere the day three hundred horse had met on Clifton down ;
The sentinel on Whitehall gate looked forth into the night,
And saw o'erhanging Richmond Hill the streak of blood-red light.
Then bugle's note and cannon's roar the deathlike silence broke,
And with one start, and with one cry, the royal city woke.
At once on all her stately gates arose the answering fires ;
At once the wild alarum clashed from all her reeling spires ;
From all the batteries of the Tower pealed loud the voice of fear ;
And all the thousand masts of Thames sent back a louder cheer :
And from the furthest wards was heard the rush of hurrying feet,
And the broad streams of pikes and flags rushed down each roaring street ;
And broader still became the blaze, and louder still the din,
As fast from every village round the horse came spurring in :
And eastward straight from wild Blackheath the warlike errand went,
And roused in many an ancient hall the gallant squires of Kent.
Southward from Surrey's pleasant hills flew those bright couriers forth ;
High on bleak Hampstead's swarthy moor they started for the north ;
And on, and on, without a pause untired they bounded still :

All night from tower to tower they sprang; they sprang
from hill to hill:
Till the proud peak unfurled the flag o'er Darwin's rocky
dales,
Till like volcanoes flared to heaven the stormy hills of
Wales,
Till twelve fair counties saw the blaze on Malvern's lonely
height,
Till streamed in crimson on the wind the Wrekin's crest of
light,
Till broad and fierce the star came forth on Ely's stately
fane,
And tower and hamlet rose in arms o'er all the boundless
plain;
Till Belvoir's lordly terraces the sign to Lincoln sent,
And Lincoln sped the message on o'er the wide vale of
Trent;
Till Skiddaw saw the fire that burnt on Gaunt's embattled
pile,
And the red glare on Skiddaw roused the burghers of
Carlisle.

* * * * * * * *

INSCRIPTION ON THE STATUE OF LORD WM. BENTINCK.

AT CALCUTTA. (1835.)

To
WILLIAM CAVENDISH BENTINCK,
Who, during seven years, ruled India with eminent
Prudence, Integrity, and Benevolence:
Who, placed at the head of a great Empire, never laid aside
The simplicity and moderation of a private citizen:
Who infused into Oriental despotism the spirit of
British Freedom:
Who never forgot that the end of Government is
The happiness of the Governed:
Who abolished cruel rites:
Who effaced humiliating distinctions:
Who gave liberty to the expression of public opinion:
Whose constant study it was, to elevate the intellectual
And moral character of the Nations committed to his charge:
This Monument
Was erected by men,
Who, differing in Race, in Manners, in Language,
And in Religion,
Cherish, with equal veneration and gratitude,
The memory of his wise, upright,
And paternal Administration.

EPITAPH ON SIR BENJAMIN HEATH MALKIN.

AT CALCUTTA. (1837.)

This Monument
Is sacred to the memory
Of
Sir Benjamin Heath Malkin, Knight,
One of the Judges of The Supreme Court of Judicature:
A man eminently distinguished
By his literary and scientific attainments,
By his professional learning and ability,
By the clearness and accuracy of his intellect,
By diligence, by patience, by firmness, by love of truth;
By public spirit, ardent and disinterested,
Yet always under the guidance of discretion;
By rigid uprightness, by unostentatious piety,
By the serenity of his temper,
And by the benevolence of his heart.

He was born on the 29th September, 1797. He died on the 21st October, 1837.

THE LAST BUCCANEER. (1839.)

The winds were yelling, the waves were swelling,
The sky was black and drear,
When the crew with eyes of flame brought the ship without a name
Alongside the last Buccaneer.

"Whence flies your sloop full sail before so fierce a gale,
When all others drive bare on the seas?
Say, come ye from the shore of the holy Salvador,
Or the gulf of the rich Caribbees?"

"From a shore no search hath found, from a gulf no line can sound,
Without rudder or needle we steer;
Above, below, our bark, dies the sea fowl and the shark,
As we fly by the last Buccaneer.

"To-night there shall be heard on the rocks of Cape de Verde
A loud crash, and a louder roar;
And to-morrow shall the deep, with a heavy moaning, sweep
The corpses and wreck to the shore."

The stately ship of Clyde securely now may ride
In the breath of the citron shades;
And Severn's towering mast securely now flies fast,
Through the sea of the balmy Trades.

From St. Jago's wealthy port, from Havannah's royal fort,
The seaman goes forth without fear;
For since that stormy night not a mortal hath had sight
Of the flag of the last Buccaneer.

EPITAPH ON A JACOBITE. (1845.)

To my true king I offered free from stain
Courage and faith : vain faith, and courage vain.
For him, I threw lands, honours, wealth, away,
And one dear hope, that was more prized than they.
For him I languished in a foreign clime,
Grey-haired with sorrow in my manhood's prime ;
Heard on Lavernia Scargill's whispering trees,
And pined by Arno for my lovelier Tees ;
Beheld each night my home in fevered sleep,
Each morning started from the dream to weep ;
Till God, who saw me tried too sorely, gave
The resting place I asked, an early grave.
Oh thou, whom chance leads to this nameless stone
From that proud country which was once mine own,
By those white cliffs I never more must see,
By that dear language which I spake like thee,
Forget all feuds, and shed one English tear
O'er English dust. A broken heart lies here.

EPITAPH ON LORD METCALFE. (1847.)

Near this stone is laid
CHARLES LORD METCALFE,
A statesman tried in many high offices
And difficult conjunctures,
And found equal to all.
The three greatest Dependencies of the British Crown
Were successively entrusted to his care.
In India, his fortitude, his wisdom,
His probity, and his moderation,
Are held in honourable remembrance
By men of many races, languages, and religions.
In Jamaica, still convulsed by a social revolution,
His prudence calmed the evil passions
Which long suffering had engendered in one class
And long domination in another.
In Canada, not yet recovered from the calamities of civil war
He reconciled contending factions
To each other, and to the Mother Country.
Costly monuments in Asiatic and American cities
Attest the gratitude of the nations which he ruled.
This tablet records the sorrow and the pride
With which his memory is cherished by his family.

TRANSLATION FROM PLAUTUS. (1850.)

[The author passed a part of the summer and autumn of 1850 at Ventnor, in the Isle of Wight. He usually, when walking alone, had with him a book. On one occasion, as he was loitering in the landslip near Bonchurch, reading the Rudens of Plautus, it struck him that it might be an interesting experiment to attempt to produce something which might be supposed to resemble passages in the lost Greek drama of Diphilus, from which the Rudens appears to have been taken. He selected one passage in the Rudens, of which he then made the following version, which he afterwards copied out at the request of a friend to whom he had repeated it.]

Act IV. Sc. vii.

DÆMONES. O Gripe, Gripe, in ætate hominum plurimæ
Fiunt transennæ, ubi decipiuntur dolis;
Atque edepol in eas plerumque esca imponitur.
Quam si quis avidus pascit escam avariter,
Decipitur in transenna avaritia sua.
Ille, qui consulte, docte, atque astute cavet,
Diutine uti bene licet partum bene.
Mi istæc videtur præda prædatum irier:
Ut cum majore dote abeat, quam advenerit.
Egone ut, quod ad me adlatum esse alienum sciam,
Calem? Minime istuc faciet noster Dæmones.
Semper cavere hoc sapientes æquissimum est,
Ne conscii sint ipsi maleficiis suis.
Ego, mihi quum lusi, nil moror ullum lucrum.

GRIPUS. Spectavi ego pridem Comicos ad istum modum
Sapienter dicta dicere, atque iis plaudier,
Quum illos sapientis mores monstrabant poplo;
Sed quum inde suam quisque ibant diversi domum,
Nullus erat illo pacto, ut illi jusserant.

ΔΑΙΜ. Ὦ Γρῖπε, Γρῖπε, πλεῖστα παγίδων σχήματα
ἴδοι τις ἂν πεπηγμέν' ἐν θνητῶν βίῳ,
καὶ πλεῖστ' ἐπ' αὐτοῖς δελέαθ', ὧν ἐπιθυμίᾳ
ὀρεγόμενός τις ἐν κακοῖς ἁλίσκεται·
ὅστις δ' ἀπιστεῖ καὶ σοφῶς φυλάττεται
καλῶς ἀπολαύει τῶν καλῶς πεπορισμένων.
ἅρπαγμα δ' οὐχ ἅρπαγμ' ὁ λάρναξ οὗτοσὶ,
ἀλλ' αὐτὸς, οἶμαι, μᾶλλον ἁρπάξει τινά.
τόνδ' ἄνδρα κλέπτειν τἀλλότρι' — εὐφήμει, τάλαν·
ταυτήν γε μὴ μαίνοιτο μανίαν Δαιμονῆς.
τόδε γὰρ ἀεὶ σοφοῖσιν εὐλαβητέον,
μή τί ποθ' ἑαυτῷ τις ἀδίκημα συννοῇ·
κέρδη δ' ἔμοιγε πάνθ' ὅσοις εὐφραίνομαι,
κέρδος δ' ἀκερδὲς ὃ τοὐμὸν ἀλγύνει κέαρ.

ΓΡΠΙ. Κἀγὼ μὲν ἤδη κωμικῶν ἀκήκοα
σεμνῶς λεγόντων τοιάδε, τοὺς δὲ θεωμένους
κροτεῖν, ματαίοις ἡδομένους σοφίσμασιν·
εἶθ', ὡς ἀπῆλθ' ἕκαστος οἴκαδ', οὐδενὶ
οὐδὲν παρέμεινε τῶν καλῶς εἰρημένων.

VALENTINE

TO THE HON. MARY C. STANHOPE, (DAUGHTER OF LORD AND LADY MAHON.)[1] 1851.

Hail, day of Music, day of Love,
On earth below, in air above.
In air the turtle fondly moans,
The linnet pipes in joyous tones;
On earth the postman toils along,
Bent double by huge bales of song,
Where, rich with many a gorgeous dye,
Blazes all Cupid's heraldry —
Myrtles and roses, doves and sparrows,
Love-knots and altars, lamps and arrows.
What nymph without wild hopes and fears
The double rap this morning hears?
Unnumbered lasses, young and fair,
From Bethnal Green to Belgrave Square,
With cheeks high-flushed, and hearts loud beating,
Await the tender annual greeting.
The loveliest lass of all is mine —
Good morrow to my Valentine!

Good morrow, gentle Child! and then
Again good morrow, and again,
Good morrow following still good morrow,
Without one cloud of strife or sorrow.
And when the God to whom we pay
In jest our homages to-day
Shall come to claim, no more in jest,
His rightful empire o'er thy breast,

[1] Already published by Earl Stanhope in his Miscellanies, 1863.

Benignant may his aspect be,
His yoke the truest liberty:
And if a tear his power confess,
Be it a tear of happiness.
It shall be so. The Muse displays
The future to her votary's gaze;
Prophetic rage my bosom swells —
I taste the cake — I hear the bells!
From Conduit Street the close array
Of chariots barricades the way
To where I see, with outstretched hand,
Majestic, thy great kinsman stand,[1]
And half unbend his brow of pride,
As welcoming so fair a bride.
Gay favours, thick as flakes of snow,
Brighten St. George's portico:
Within I see the chancel's pale,
The orange flowers, the Brussels veil,
The page on which those fingers white,
Still trembling from the awful rite,
For the last time shall faintly trace
The name of Stanhope's noble race.
I see kind faces round thee pressing,
I hear kind voices whisper blessing;
And with those voices mingles mine —
All good attend my Valentine!

T. B. MACAULAY.

St. Valentine's Day, 1851.

[1] The statue of Mr. Pitt in Hanover Square.

PARAPHRASE

OF A PASSAGE IN THE "CHRONICLE OF THE MONK OF ST. GALL."

(1856.)

[In the summer of 1856, the author travelled with a friend through Lombardy. As they were on the road between Novara and Milan, they were conversing on the subject of the legends relating to that country. The author remarked to his companion that Mr. Panizzi, in the Essay on the Romantic Narrative Poetry of the Italians, prefixed to his edition of Bojardo, had pointed out an instance of the conversion of ballad poetry into prose narrative which strongly confirmed the theory of Perizonius and Niebuhr, upon which "The Lays of Ancient Rome" are founded; and, after repeating an extract which Mr. Panizzi has given from the "Chronicle of the Monk of St. Gall," he proceeded to frame a metrical paraphrase. The note in Mr. Panizzi's work (vol. i. p. 123, note *b*) is here copied verbatim.]

"The monk says that Oger was with Desiderius, King of Lombardy, watching the advance of Charlemagne's army. The king often asked Oger where was Charlemagne. Quando videris, inquit, segetem campis inhorrescere, ferreum Padum et Ticinum marinis fluctibus ferro nigrantibus muros civitatis inundantes, tunc est spes Caroli venientis. His nedum expletis primum ad occasum Circino vel Borea cœpit apparere, quasi nubes tenebrosa, quæ diem clarissimam horrentes convertit in umbras. Sed propiante Imperatore, ex armorum splendore, dies omni nocte tenebrosior oborta est inclusis. Tunc visus est ipse ferreus Carolus ferrea galea cristatus, ferreis manicis armillatus, &c. &c. His igitur, quæ ego balbus et edentulus, non ut debui circuitu tardiore diutius explicare tentavi, veridicus speculator Oggerus celerrimo visu contuitus dixit ad Desiderium: Ecce, habes quem tantopere perquisisti. Et hæc dicens, pene exanimis cecidit. —Monach. Sangal. *de Reb. Bel. Caroli Magni.* lib. ii. § xxvi. Is this not evidently taken from poetical effusions?"

PARAPHRASE.

To Oggier spake King Didier:
"When cometh Charlemagne?
We looked for him in harvest:
We looked for him in rain.
Crops are reaped; and floods are past;
And still he is not here.
Some token show, that we may know
That Charlemagne is near."

Then to the King made answer
Oggier, the christened Dane:
"When stands the iron harvest,
Ripe on the Lombard plain,
That stiff harvest which is reaped
With sword of knight and peer,
Then by that sign ye may divine
That Charlemagne is near.

"When round the Lombard cities
The iron flood shall flow,
A swifter flood than Ticin,
A broader flood than Po,
Frothing white with many a plume,
Dark blue with many a spear,
Then by that sign ye may divine
That Charlemagne is near."

LINES WRITTEN ON THE NIGHT OF THE 30TH OF JULY, 1847,

AT THE CLOSE OF AN UNSUCCESSFUL CONTEST FOR EDINBURGH.

THE day of tumult, strife, defeat, was o'er;
Worn out with toil, and noise, and scorn, and spleen,
I slumbered, and in slumber saw once more
A room in an old mansion,[1] long unseen.

That room, methought, was curtained from the light;
Yet through the curtains shone the moon's cold ray
Full on a cradle, where, in linen white,
Sleeping life's first soft sleep, an infant lay.

Pale flickered on the hearth the dying flame,
And all was silent in that ancient hall,
Save when by fits on the low night-wind came
The murmur of the distant waterfall.

And lo! the fairy queens who rule our birth
Drew nigh to speak the new born baby's doom:
With noiseless step, which left no trace on earth,
From gloom they came, and vanished into gloom.

Not deigning on the boy a glance to cast
Swept careless by the gorgeous Queen of Gain;
More scornful still, the Queen of Fashion passed,
With mincing gait and sneer of cold disdain.

[1] Rothley Temple, Leicestershire.

The Queen of Power tossed high her jewelled head,
And o'er her shoulder threw a wrathful frown:
The Queen of Pleasure on the pillow shed
Scarce one stray rose-leaf from her fragrant crown.

Still Fay in long procession followed Fay;
And still the little couch remained unblest:
But, when those wayward sprites had passed away,
Came One, the last, the mightiest, and the best.

Oh glorious lady, with the eyes of light
And laurels clustering round thy lofty brow,
Who by the cradle's side didst watch that night,
Warbling a sweet strange music, who wast thou?

"Yes, darling; let them go;" so ran the strain:
"Yes; let them go, gain, fashion, pleasure, power,
And all the busy elves to whose domain
Belongs the nether sphere, the fleeting hour.

"Without one envious sigh, one anxious scheme,
The nether sphere, the fleeting hour resign,
Mine is the world of thought, the world of dream,
Mine all the past, and all the future mine.

"Fortune, that lays in sport the mighty low,
Age, that to penance turns the joys of youth,
Shall leave untouched the gifts which I bestow,
The sense of beauty and the thirst of truth.

"Of the fair brotherhood who share my grace,
I, from thy natal day, pronounce thee free;
And, if for some I keep a nobler place,
I keep for none a happier than for thee.

"There are who, while to vulgar eyes they seem
Of all my bounties largely to partake,
Of me as of some rival's handmaid deem,
And court me but for gain's, power's, fashion's sake.

"To such, though deep their lore, though wide their fame,
Shall my great mysteries be all unknown:
But thou, through good and evil, praise and blame,
Wilt not thou love me for myself alone?

"Yes; thou wilt love me with exceeding love;
And I will tenfold all that love repay,
Still smiling, though the tender may reprove,
Still faithful, though the trusted may betray.

"For aye mine emblem was, and aye shall be,
The ever-during plant whose bough I wear,
Brightest and greenest then, when every tree
That blossoms in the light of Time is bare.

"In the dark hour of shame, I deigned to stand
Before the frowning peers at Bacon's side:
On a far shore I smoothed with tender hand,
Through months of pain, the sleepless bed of Hyde:

"I brought the wise and brave of ancient days
To cheer the cell where Raleigh pined alone:
I lighted Milton's darkness with the blaze
Of the bright ranks that guard the eternal throne.

"And even so, my child, it is my pleasure
That thou not then alone shouldst feel me nigh,
When in domestic bliss and studious leisure,
Thy weeks uncounted come, uncounted fly;

"Not then alone, when myriads, closely pressed
Around thy car, the shout of triumph raise;
Nor when, in gilded drawing rooms, thy breast
Swells at the sweeter sound of woman's praise.

"No: when on restless night dawns cheerless morrow,
When weary soul and wasting body pine,
Thine am I still, in danger, sickness, sorrow,
In conflict, obloquy, want, exile, thine;

"Thine, where on mountain waves the snowbirds scream,
Where more than Thule's winter barbs the breeze,
Where scarce, through lowering clouds, one sickly gleam
Lights the drear May-day of Antartic seas;

"Thine, when around thy litter's track all day
White sandhills shall reflect the blinding glare;
Thine, when, through forests breathing death, thy way
All night shall wind by many a tiger's lair;

"Thine most, when friends turn pale, when traitors fly,
When, hard beset, thy spirit, justly proud,
For truth, peace, freedom, mercy, dares defy
A sullen priesthood and a raving crowd.

"Amidst the din of all things fell and vile,
Hate's yell, and envy's hiss, and folly's bray,
Remember me; and with an unforced smile
See riches, baubles, flatterers, pass away.

"Yes: they will pass away; nor deem it strange:
They come and go, as comes and goes the sea:
And let them come and go: thou, through all change,
Fix thy firm gaze on virtue and on me."

ROSAMOND.

[*From "What You Will," Knight's Quarterly Magazine, Vol. I. pp.* 219, 220. 1823

May 7. — Tristram Merton, I have a strong curiosity to know who Rosamond is. But you will not tell me; and, after all, as far as your verses are concerned, the surname is nowise germane to the matter. As poor Sheridan said, it is too formal to be registered in Love's calendar: —

O Rosamond! how sweet it were, on some fine summer dawn,
With thee to wander, hand in hand, upon the dewy lawn,
When flowers and heaps of new-mown grass perfume the morning breeze,
And round the straw-built hive resounds the murmur of the bees;
To see the distant mountain-tops empurpled by the ray,
And look along the spreading vale to the ocean far away;
O'er russet heaths, and glancing rills, and mossy forests green,
And curling smoke of cottages, and dark grey spires between.

And oh! how passing sweet it were, through the long sunny day,
To gaze upon thy lovely face, to gaze myself away;
While thou beneath a mountain-ash, upon a mossy seat,
Shouldst sing a low wild song to me, reclining at thy feet!
And oh! to see thee, in some mood of playful toil, entwine
Round the green trellis of our bower the rose and eglantine,

Still laying on my soul and sense a new and mystic charm,
At every turn of thy fairy shape and of thy snowy arm.

And when the winds on winter nights in fitful cadence blow,
And whirl against our frozen pane the eddying flakes of snow,
How gay would be the fireside light, how sweet the kettle's moan,
Joined to the lustre of thy smile, the music of thy tone!
How fondly could I play for hours with thy long curling tresses,
And press thy hand and clasp thy neck with fanciful caresses,
And mingle low impassioned speech with kisses and with sighs,
And pore into the dark-blue depths of those voluptuous eyes.

Tristram, I hope "Rosamond" and your "Fair Girl of France" will not pull caps, — but I cannot forbear the temptation of introducing your Roxana and Statira to an admiring public: —

By thy love, fair girl of France,
And the arch and bashful glance
Which so well revealed it;
By the flush upon thy brow,
By the softly faltered vow,
And the kiss which sealed it;

By those foreign accents dear,
Whose wild cadence on mine ear
Still in slumber lingers;
By thine eyes of sapphire splendour,
By the thrilling pressure tender
Of thy trembling fingers;

By thy pouting, by thy smiles,
And by all the varied wiles
  Which so sweetly won me, —
Laughter, blushes, sighs, caresses,
By thy lips, and by thy tresses,
  Sometimes think upon me.

Think upon the parting day,
And the tears I kissed away
  From thy glowing cheek ;
Think of many a dearer token,
Think of all that I have spoken,
  All I may not speak.

INTRODUCTORY REPORT

UPON THE

INDIAN PENAL CODE.

INTRODUCTORY REPORT

UPON THE

INDIAN PENAL CODE.

TO THE RIGHT HONOURABLE GEORGE LORD AUCKLAND, K. G. C. B., GOVERNOR-GENERAL OF INDIA IN COUNCIL.

My Lord,—

The Penal Code which, according to the orders of Government of the 15th of June, 1835, we had the honour to lay before your Lordship in Council on the 2d of May last, has now been printed under our superintendence, and has, as well as the Notes, been carefully revised and corrected by us while in the press.

The time which has been employed in framing this body of law will not be thought long by any person who is acquainted with the nature of the labour which such works require, and with the history of other works of the same kind. We should, however, have been able to lay it before your Lordship in Council many months earlier, but for a succession of unfortunate circumstances against which it was impossible to provide. During a great part of the year 1836, the Commission was rendered almost entirely inefficient by the ill-health of a majority of the members; and we were altogether deprived of the valuable services of our colleague, Mr. Cameron, at the very time when those services were most needed.

It is hardly necessary for us to entreat your Lordship in Council to examine with candour the work which we now submit to you. To the ignorant and inexperienced the task in which we have been engaged may appear easy and

simple. But the members of the Indian Government are doubtless well aware that it is among the most difficult tasks in which the human mind can be employed; that persons placed in circumstances far more favourable than ours have attempted it with very doubtful success; that the best codes extant, if malignantly criticised, will be found to furnish matter for censure in every page; that the most copious and precise of human languages furnish but a very imperfect machinery to the legislator; that, in a work so extensive and complicated as that on which we have been employed, there will inevitably be, in spite of the most anxious care, some omissions and some inconsistencies; and that we have done as much as could reasonably be expected from us if we have furnished the Government with that which may, by suggestions from experienced and judicious persons, be improved into a good code.

Your Lordship in Council will be prepared to find in this performance those defects which must necessarily be found in the first portion of a code. Such is the relation which exists between the different parts of the law, that no part can be brought to perfection while the other parts remain rude. The penal code cannot be clear and explicit while the substantive civil law and the law of procedure are dark and confused. While the rights of individuals and the powers of public functionaries are uncertain, it cannot always be certain whether those rights have been attacked, or those powers exceeded.

Your Lordship in Council will perceive that the system of penal law which we propose is not a digest of any existing system, and that no existing system has furnished us even with a groundwork. We trust that your Lordship in Council will not hence infer that we have neglected to inquire, as we are commanded to do by Parliament, into the present state of that part of the law, or that in other parts of our labours we are likely to recommend unsparing innovation, and the entire sweeping away of ancient usages. We are perfectly aware of the value of that sanction which long prescription and national feeling give to institutions. We are perfectly aware that lawgivers ought not to

disregard even the unreasonable prejudices of those for whom they legislate. So sensible are we of the importance of these considerations, that, though there are not the same objections to innovation in penal legislation as to innovation affecting vested rights of property, yet, if we had found India in possession of a system of criminal law which the people regarded with partiality, we should have been inclined rather to ascertain it, to digest it, and moderately to correct it, than to propose a system fundamentally different.

But it appears to us that none of the systems of penal law established in British India has any claim to our attention, except what it may derive from its own intrinsic excellence. All those systems are foreign. All were introduced by conquerors differing in race, manners, language, and religion from the great mass of the people. The criminal law of the Hindoos was long ago superseded, through the greater part of the territories now subject to the Company, by that of the Mahomedans, and is certainly the last system of criminal law which an enlightened and humane Government would be disposed to revive. The Mahomedan criminal law has in its turn been superseded, to a great extent, by the British Regulations. Indeed, in the territories subject to the Presidency of Bombay, the criminal law of the Mahomedans, as well as that of the Hindoos, has been altogether discarded, except in one particular class of cases; and even in such cases, it is not imperative on the judge to pay any attention to it. The British Regulations, having been made by three different legislatures, contain, as might be expected, very different provisions. Thus in Bengal serious forgeries are punishable with imprisonment for a term double of the term fixed for perjury:[1] in the Bombay Presidency, on the contrary, perjury is punishable with imprisonment for a term double of the term fixed for the most aggravated forgeries:[2] in the Madras Presidency, the two offences are exactly on the same footing.[3] In the Bombay Presidency the escape of a convict is punished

[1] Bengal Regulation XVII. of 1817, section IX.

[2] Bombay Regulation XIV. of 1827, sections XVI. and XVII.

[3] Madras Regulation VI. of 1811, section III.

with imprisonment for a term double of the term assigned to that offence in the two other Presidencies;[1] while a coiner is punished with little more than half the imprisonment assigned to his offence in the other two Presidencies.[2] In Bengal the purchasing of regimental necessaries from soldiers is not punishable except at Calcutta, and is there punishable with a fine of only fifty rupees.[3] In the Madras Presidency it is punishable with a fine of forty rupees.[4] In the Bombay Presidency it is punishable with imprisonment for four years.[5] In Bengal the vending of stamps without a license is punishable with a moderate fine; and the purchasing of stamps from a person not licensed to sell them is not punished at all.[6] In the Madras Presidency the vendor is punished with a short imprisonment; but there also the purchaser is not punished at all.[7] In the Bombay Presidency, both the vendor and the purchaser are liable to imprisonment for five years, and to flogging.[8]

Thus widely do the systems of penal law now established in British India differ from each other: nor can we recommend any one of the three systems as furnishing even the rudiments of a good code. The penal law of Bengal and of the Madras Presidency is, in fact, Mahomedan law, which has gradually been distorted to such an extent as to deprive it of all title to the religious veneration of Mahomedans, yet which retains enough of its original peculiarities to perplex and encumber the administration of justice. In substance it now differs at least as widely from the Mahomedan penal law, as the penal law of England differs from the penal law of France. Yet technical terms and nice

[1] Bombay Regulation XIV. of 1827, section XXIV., and Regulation V. of 1831, section I. Bengal Regulation XII. of 1818, section V. clause 1. Madras Regulation VI. of 1822, section V. clause 2.

[2] Bombay Regulation XIV. of 1827, section XVIII. Bengal Regulation XVII. of 1817, section IX. Madras Regulation II. of 1822, section V.

[3] Calcutta Rule, Ordinance, and Regulation, passed 21st August, registered 13th Nov. 1821.

[4] Madras Regulation XIV. of 1832, section II. clause 1.

[5] Bombay Regulation XXII. of 1827, section XIX.

[6] Bengal Regulation X. of 1829, section IX. clause 2.

[7] Madras Regulation XIII. of 1816, section X clause 10.

[8] Bombay Regulation XVIII. of 1827, sectior IX. clause 1.

distinctions borrowed from the Mahomedan law are still retained. Nothing is more usual than for the Courts to ask the law officers what punishment the Mahomedan law prescribes in a hypothetical case, and then to inflict that punishment on a person who is not within that hypothetical case, and who by the Mahomedan law would be liable either to a different punishment, or to no punishment. We by no means presume to condemn the policy which led the British Government to retain, and gradually to modify, the system of criminal jurisprudence which it found established in these provinces. But it is evident that a body of law thus formed must, considered merely as a body of law, be defective and inconvenient.

The penal law of the Bombay Presidency is all contained in the Regulations; and is almost all to be found in one extensive Regulation.[1] The Government of that Presidency appears to have been fully sensible of the great advantage which must arise from placing the whole law in a written form before those who are to administer and those who are to obey it; and, whatever may be the imperfections of the execution, high praise is due to the design. The course which we recommend to the Government, and which some persons may perhaps consider as too daring, has already been tried at Bombay, and has not produced any of those effects which timid minds are disposed to anticipate even from the most reasonable and useful innovations. Throughout a large territory, inhabited to a great extent by a newly-conquered population, all the ancient systems of penal law were at once superseded by a code, and this without the smallest sign of discontent among the people.

It would have given us great pleasure to have found that code such as we could with propriety have taken as the groundwork of a code for all India. But we regret to say that the penal law of the Bombay Presidency has over the penal law of the other Presidencies no superiority, except that of being digested. In framing it, the principles according to which crimes ought to be classified and punishments apportioned have been less regarded than in the legislation

[1] Bombay Regulation XIV. of 1827.

of Bengal and Madras. The secret destroying of any property, though it may not be worth a single rupee, is punishable with imprisonment for five years.[1] Unlawful confinement, though it may last only for a quarter of an hour, is punishable with imprisonment for five years.[2] Every conspiracy to injure or impoverish any person is punishable with imprisonment for ten years;[3] so that a man who engages in a design as atrocious as the Gunpowder Plot, and one who is party to a scheme for putting off an unsound horse on a purchaser, are classed together, and are liable to exactly the same punishment. Under this law, if two men concert a petty theft, and afterwards repent of their purpose and abandon it, each of them is liable to twenty times the punishment of the actual theft.[4] All assaults which cause a severe shock to the mental feelings of the sufferer are classed with the atrocious crime of rape, and are liable to the punishment of rape, that is, if the Courts shall think fit, to imprisonment for fourteen years.[5] The breaking of the window of a house, the dashing to pieces a china cup within a house, the riding over a field of grain in hunting, are classed with the crime of arson, and are punishable, incredible as it may appear, with death. The following is the law on the subject: "Any person who shall wilfully and wrongfully set fire to or otherwise damage or destroy any part of a dwelling-house, or building appertaining thereto, or property contained in a dwelling-house, or building or enclosure appertaining thereto, or crops standing or reaped in the field, shall be liable to any of the punishments specified in Section III. of this Regulation."[6] The section to which reference is made contains a list of the punishments authorised by the Bombay code, and at the head of that list stands "Death."

But these errors, the effects probably of inadvertence, are not, in our opinion, the most serious faults of the penal

[1] Regulation XIV. of 1827, section XLII. clause 2.
[2] Regulation XIV. of 1827, section XXXIII. clause 1.
[3] Regulation XVII. of 1828.
[4] Regulation XIV. of 1837, section XXXIX.
[5] Regulation XIV. of 1827, section XXIX clause 1.
[6] Regulation XIV. of 1827, section XLII. clause 1.

code of Bombay. That code contains enactments which it is impossible to excuse on the ground of inadvertence — enactments the language of which shows that when they were framed their whole effect was fully understood, and which appear to us to be directly opposed to the first principles of penal law. One of the first principles of penal law is this, that a person who merely conceals a crime after it has been committed ought not to be punished as if he had himself committed it. By the Bombay code, the concealment after the fact of murder is punishable as murder; the concealment after the fact of gang-robbery is punishable as gang-robbery;[1] and this, though the concealment after the fact of the most cruel mutilations, and of the most atrocious robberies committed by not more than four persons, is not punished at all.

If there be any distinction which more than any other it behoves the legislator to bear constantly in mind, it is the distinction between harm voluntarily caused and harm involuntarily caused. Negligence, indeed, often causes mischief, and often deserves punishment. But to punish a man whose negligence has produced some evil which he never contemplated, as if he had produced the same evil knowingly and with deliberate malice, is a course which, as far as we are aware, no jurist has ever recommended in theory, and which we are confident that no society would tolerate in practice. It is, however, provided by the Bombay code that the "unintentional commission of any act punishable by that code shall be punished according to the Court's judgment of the culpable disregard of injury to others evinced by the person committing the said act, but the punishment for such unintentional commission shall not exceed that prescribed for the offence committed."[2]

We have said enough to show that it is owing not at all to the law, but solely to the discretion and humanity of the judges, that great cruelty and injustice is not daily perpetrated in the Criminal Courts of the Bombay Presidency.

Many important classes of offences are altogether un-

[1] Regulation XIV. of 1827, section I. clause 1.

[2] Regulation XIV. of 1827, section I. clause 3.

noticed by the Bombay code; and this omission appears to us to be very ill supplied by one sweeping clause, which arms the Courts with almost unlimited power to punish as they think fit offences against morality, or against the peace and good order of society, if those offences are penal by the religious law of the offender.[1] This clause does not apply to people who profess a religion with which a system of penal jurisprudence is not inseparably connected. And from this state of the law some singular consequences follow. For example, a Mahomedan is punishable for adultery: a Christian is at liberty to commit adultery with impunity.

Such is the state of the penal law in the Mofussil. In the meantime the population which lives within the local jurisdiction of the Courts established by the Royal Charters is subject to the English Criminal Law, that is to say, to a very artificial and complicated system, — to a foreign system, — to a system which was framed without the smallest reference to India, — to a system which even in the country for which it was framed is generally considered as requiring extensive reform, — to a system finally which has just been pronounced by a Commission composed of able and learned English lawyers to be so defective that it can be reformed only by being entirely taken to pieces and reconstructed.[2]

Under these circumstances we have not thought it desirable to take as the groundwork of the code any of the systems of law now in force in any part of India. We have, indeed, to the best of our ability, compared the code with all those systems, and we have taken suggestions from all; but we have not adopted a single provision merely because it formed a part of any of those systems. We have also compared our work with the most celebrated systems of Western jurisprudence, as far as the very scanty means of information which were accessible to us in this country enabled us to do so. We have derived much valuable

[1] Regulation XIV. of 1827, section I. clause 1.

[2] Letter to Lord John Russell from the Commissioners appointed to inquire into the state of the Criminal Law, dated 19th January, 1837.

assistance from the French code, and from the decisions of the French Courts of Justice on questions touching the construction of that code. We have derived assistance still more valuable from the code of Louisiana, prepared by the late Mr. Livingston. We are the more desirous to acknowledge our obligations to that eminent jurist, because we have found ourselves under the necessity of combatting his opinions on some important questions.

The reasons for those provisions which appear to us to require explanation or defence will be found appended to the Code in the form of Notes. Should your Lordship in Council wish for fuller information as to the considerations by which we have been guided in framing any part of the law, we shall be ready to afford it.

One peculiarity in the manner in which this code is framed will immediately strike your Lordship in Council, — we mean the copious use of illustrations. These illustrations will, we trust, greatly facilitate the understanding of the law, and will at the same time often serve as a defence of the law. In our definitions we have repeatedly found ourselves under the necessity of sacrificing neatness and perspicuity to precision, and of using harsh expressions because we could find no other expressions which would convey our whole meaning, and no more than our whole meaning. Such definitions standing by themselves might repel and perplex the reader, and would perhaps be fully comprehended only by a few students after long application. Yet such definitions are found, and must be found, in every system of law which aims at accuracy. A legislator may, if he thinks fit, avoid such definitions, and by avoiding them he will give a smoother and more attractive appearance to his workmanship; but in that case he flinches from a duty which he ought to perform, and which somebody must perform. If this necessary but most disagreeable work be not performed by the lawgiver once for all, it must be constantly performed in a rude and imperfect manner by every judge in the empire, and will probably be performed by no two judges in the same way. We have therefore thought it right not to shrink from the task of

framing these unpleasing but indispensable parts of a code. And we hope that when each of these definitions is followed by a collection of cases falling under it, and of cases which, though at first sight they appear to fall under it, do not really fall under it, the definition and the reasons which led to the adoption of it will be readily understood. The illustrations will lead the mind of the student through the same steps by which the minds of those who framed the law proceeded, and may sometimes show him that a phrase which may have struck him as uncouth, or a distinction which he may have thought idle, was deliberately adopted for the purpose of including or excluding a large class of important cases. In the study of geometry it is constantly found that a theorem which, read by itself, conveyed no distinct meaning to the mind, becomes perfectly clear as soon as the reader casts his eye over the statement of the individual case taken for the purpose of demonstration. Our illustrations, we trust, will in a similar manner facilitate the study of the law.

There are two things which a legislator should always have in view while he is framing laws; the one is, that they should be as far as possible precise: the other, that they should be easily understood. To unite precision and simplicity in definitions intended to include large classes of things, and to exclude others very similar to many of those which are included, will often be utterly impossible. Under such circumstances it is not easy to say what is the best course. That a law, and especially a penal law, should be drawn in words which convey no meaning to the people who are to obey it is an evil. On the other hand, a loosely-worded law is no law, and to whatever extent a legislature uses vague expressions, to that extent it abdicates its functions, and resigns the power of making law to the Courts of Justice.

On the whole, we are inclined to think that the best course is that which we have adopted. We have, in framing our definitions, thought principally of making them precise, and have not shrunk from rugged or intricate phraseology when such phraseology appeared to us to be necessary

to precision. If it appeared to us that our language was likely to perplex an ordinary reader, we added as many illustrations as we thought necessary for the purpose of explaining it. The definitions and enacting clauses contain the whole law. The illustrations make nothing law which would not be law without them. They only exhibit the law in full action, and show what its effects will be on the events of common life.

Thus the code will be at once a statute book and a collection of decided cases. The decided cases in the code will differ from the decided cases in the English law books in two most important points. In the first place, our illustrations are never intended to supply any omission in the written law, nor do they ever, in our opinion, put a strain on the written law. They are merely instances of the practical application of the written law to the affairs of mankind. Secondly, they are cases decided not by the judges but by the legislature, by those who make the law, and who must know more certainly than any judge can know what the law is which they mean to make.

The power of construing the law in cases in which there is any real reason to doubt what the law is amounts to the power of making the law. On this ground the Roman jurists maintained that the office of interpreting the law in doubtful matters necessarily belonged to the legislature. The contrary opinion was censured by them with great force of reason, though in language perhaps too bitter and sarcastic for the gravity of a code. "Eorum vanam subtilitatem tam risimus quam corrigendam esse censuimus. Si enim in præsenti leges condere soli imperatori concessum est, et leges interpretari solo dignum imperio esse oportet. Quis legum ænigmata solvere et omnibus aperire idoneus esse videbitur nisi is cui legislatorem esse concessum est? Explosis itaque his ridiculosis ambiguitatibus tam conditor quam interpres legum solus imperator juste existimabitur." [1]

The decisions on particular cases which we have annexed to the provisions of the code resemble the imperial rescripts in this, that they proceed from the same authority from

[1] Cod. Just., Lib. I., Tit. XIV. 12.

which the provisions themselves proceed. They differ from the imperial rescripts in this most important circumstance, that they are not made *ex post facto*, that they cannot therefore be made to serve any particular turn, that the persons condemned or absolved by them are purely imaginary persons, and that, therefore, whatever may be thought of the wisdom of any judgment which we have passed, there can be no doubt of its impartiality.

The publication of this collection of cases decided by legislative authority will, we hope, greatly limit the power which the Courts of Justice possess of putting their own sense on the laws. But we are sensible that neither this collection nor any other can be sufficiently extensive to settle every question which may be raised as to the construction of the code. Such questions will certainly arise, and, unless proper precautions be taken, the decisions on such questions will accumulate till they form a body of law of far greater bulk than that which has been adopted by the legislature. Nor is this the worst. While the judicial system of British India continues to be what it now is, these decisions will render the law not only bulky, but uncertain and contradictory. There are at present eight chief Courts subject to the legislative power of your Lordship in Council, four established by Royal Charter, and four which derive their authority from the Company. Every one of these tribunals is perfectly independent of the others. Every one of them is at liberty to put its own construction on the law; and it is not to be expected that they will always adopt the same construction. Under so inconvenient a system there will inevitably be, in the course of a few years, a large collection of decisions diametrically opposed to each other, and all of equal authority.

How the powers and mutual relations of these Courts may be placed on a better footing, and whether it be possible or desirable to have in India a single tribunal empowered to expound the code in the last resort, are questions which must shortly engage the attention of the Law Commission. But whether the present judicial organisation be retained or not, it is most desirable that measures

should be taken to prevent the written law from being overlaid by an immense weight of comments and decisions. We conceive that it is proper for us, at the time at which we lay before your Lordship in Council the first part of the Indian code, to offer such suggestions as have occurred to us on this important subject.

We do not think it desirable that the Indian legislature should, like the Roman emperors, decide doubtful points of law which have actually been mooted in cases pending before the tribunals. In criminal cases, with which we are now more immediately concerned, we think that the accused party ought always to have the advantage of a doubt on a point of law, if that doubt be entertained after mature consideration by the highest judicial authority, as well as of a doubt on a matter of fact. In civil suits which are actually pending, we think it on the whole desirable to leave to the Courts the office of deciding doubtful questions of law which have actually arisen in the course of litigation. But every case in which the construction put by a judge on any part of the code is set aside by any of those tribunals from which at present there is no appeal in India, and every case in which there is a difference of opinion in a Court composed of several judges as to the construction of any part of the code, ought to be forthwith reported to the legislature. Every judge of every rank whose duty it is to administer the law as contained in the code should be enjoined to report to his official superiors every doubt which he may entertain as to any question of construction which may have arisen in his Court. Of these doubts, all which are not obviously unreasonable ought to be periodically reported by the highest judicial authorities to the legislature. All the questions thus reported to the Government might with advantage be referred for examination to the Law Commission, if that Commission should be a permanent body. In some cases it will be found that the law is already sufficiently clear, and that any misconstruction which may have taken place is to be attributed to weakness, carelessness, wrongheadedness or corruption on the part of an individual, and is not likely to occur again. In such cases it will be

unnecessary to make any change in the code. Sometimes it will be found that a case has arisen respecting which the code is silent. In such a case it will be proper to supply the omission. Sometimes it may be found that the code is inconsistent with itself. If so, the inconsistency ought to be removed. Sometimes it will be found that the words of the law are not sufficiently precise. In such a case it will be proper to substitute others. Sometimes it will be found that the language of the law, though it is as precise as the subject admits, is not so clear that a person of ordinary intelligence can see its whole meaning. In these cases it will generally be expedient to add illustrations, such as may distinctly show in what sense the legislature intends the law to be understood, and may render it impossible that the same question, or any similar question, should ever again occasion difference of opinion. In this manner every successive edition of the code will solve all the important questions as to the construction of the code which have arisen since the appearance of the edition immediately preceding. Important questions, particularly questions about which Courts of the highest rank have pronounced opposite decisions, ought to be settled without delay; and no point of law ought to continue to be a doubtful point more than three or four years after it has been mooted in a Court of Justice. An addition of a very few pages to the code will stand in the place of several volumes of reports, and will be of far more value than such reports, inasmuch as the additions to the code will proceed from the legislature, and will be of unquestionable authority; whereas the reports would only give the opinions of the judges, which other judges might venture to set aside.

It appears to us also highly desirable that, if the code shall be adopted, all those penal laws which the Indian legislature may from time to time find it necessary to pass should be framed in such a manner as to fit into the code. Their language ought to be that of the code. No word ought to be used in any other sense than that in which it is used in the code. The very part of the code in which the new law is to be inserted ought to be indicated. If the new law

rescinds or modifies any provision of the code, that provision ought to be indicated. In fact the new law ought, from the day on which it is passed, to be part of the code, and to affect all the other provisions of the code, and to be affected by them as if it were actually a clause of the original code. In the next edition of the code, the new law ought to appear in its proper place.

For reasons which have been fully stated to your Lordship in Council in another communication, we have not inserted in the code any clause declaring to what places and to what classes of persons it shall apply.

Your Lordship in Council will see that we have not proposed to except from the operation of this code any of the ancient sovereign houses of India residing within the Company's territories. Whether any such exception ought to be made is a question which, without a more accurate knowledge than we possess of existing treaties, of the sense in which those treaties have been understood, of the history of negotiations, of the temper and of the power of particular families, and of the feeling of the body of the people towards those families, we could not venture to decide. We will only beg permission most respectfully to observe that every such exception is an evil; that it is an evil that any man should be above the law; that it is a still greater evil that the public should be taught to regard as a high and enviable distinction the privilege of being above the law; that the longer such privileges are suffered to last, the more difficult it is to take them away; that there can scarcely ever be a fairer opportunity for taking them away than at the time when the Government promulgates a new code binding alike on persons of different races and religions; and that we greatly doubt whether any consideration, except that of public faith solemnly pledged, deserves to be weighed against the advantages of equal justice.

The peculiar state of public feeling in this country may render it advisable to frame the law of procedure in such a manner that families of high rank may be dispensed, as far as possible, from the necessity of performing acts which are here regarded, however unreasonably, as humiliating. But

though it may be proper to make wide distinctions as respects form, there ought in our opinion to be, as respects substance, no distinctions except those which the Government is bound by express engagements to make. That a man of rank should be examined with particular ceremonies or in a particular place may, in the present state of Indian society, be highly expedient. But that a man of any rank should be allowed to commit crimes with impunity must in every state of society be most pernicious.

The provisions of the code will be applicable to offences committed by soldiers, as well as to offences committed by other members of the community. But for those purely military offences which soldiers only can commit, we have made no provision. It appears to us desirable that this part of the law should be taken up separately, and we have been given to understand that your Lordship in Council has determined that it shall be so taken up. But we have, as your Lordship in Council will perceive, made provision for punishing persons who, not being themselves subject to martial law, abet soldiers in the breach of military discipline.

Your Lordship in Council will observe that in many parts of the penal code we have referred to the code of procedure, which as yet is not in existence; and hence it may possibly be supposed to be our opinion that, till the code of procedure is framed, the penal code cannot come into operation. Such, however, is not our meaning. We conceive that almost the whole of the penal code, such as we now lay it before your Lordship, might be made law, at least in the Mofussil, without any considerable change in the existing rules of procedure. Should your Lordship in Council agree with us in this opinion, we shall be prepared to suggest those changes which it would be necessary immediately to make.

In conclusion, we beg respectfully to suggest that, if your Lordship in Council is disposed to adopt the code which we have framed, it is most desirable that the native population should, with as little delay as possible, be furnished with good versions of it in their own languages. Such versions, in our opinion, can be produced only by the combined la-

bours of enlightened Europeans and natives; and it is not probable that men competent to execute all the translations which will be required would be found in any single province of India. We are sensible that the difficulty of procuring good translations will be great; but we believe that the means at the disposal of your Lordship in Council are sufficient to overcome every difficulty; and we are confident that your Lordship in Council will not grudge anything that may be necessary for the purpose of enabling the people who are placed under your care to know what that law is according to which they are required to live.

We have the honour to be,
My Lord,
Your Lordship's most obedient humble Servants,

T. B. Macaulay,
J. M. Macleod,
G. W. Anderson,
F. Millett.

Indian Law Commission,
October 14, 1837.

NOTES.

NOTE (A).

ON THE CHAPTER OF PUNISHMENTS.

First among the punishments provided for offences by this code stands death. No argument that has been brought to our notice has satisfied us that it would be desirable wholly to dispense with this punishment. But we are convinced that it ought to be very sparingly inflicted, and we propose to employ it only in cases where either murder or the highest offence against the State has been committed.

We are not apprehensive that we shall be thought by many persons to have resorted too frequently to capital punishment; but we think it probable that many, even of those who condemn the English statute book as sanguinary, may think that our code errs on the other side. They may be of opinion that gang-robbery, the cruel mutilation of the person, and possibly rape, ought to be punished with death. These are doubtless offences which, if we looked only at their enormity, at the evil which they produce, at the terror which they spread through society, at the depravity which they indicate, we might be inclined to punish capitally. But atrocious as they are, they cannot, as it appears to us, be placed in the same class with murder. To the great majority of mankind nothing is so dear as life. And we are of opinion that to put robbers, ravishers, and mutilators on the same footing with murderers, is an arrangement which diminishes the security of life.

There is in practice a close connexion between murder and most of those offences which come nearest to murder in enormity. Those offences are almost always committed under such circumstances that the offender has it in his power to add murder to his guilt. They are often committed under such circumstances that the offender has a temptation to add murder to his guilt. The same opportunities, the same superiority of force, which enabled a man to rob, to mangle, or to ravish, will enable him to go further, and to despatch his victim. As he has almost always the power to murder, he will often have a strong motive to murder, inasmuch as by murder he may often hope to remove the only witness of the crime which he has already committed. If the punishment of the crime which he has already committed be exactly the same with the punishment of murder, he will have no restraining motive. A law which imprisons for rape and robbery, and hangs for murder, holds out to ravishers and robbers a strong inducement to spare the lives of those whom they have injured. A law which hangs for rape and robbery, and which also hangs for murder, holds out, indeed, if it be rigorously carried into effect, a strong motive to deter men from rape and robbery; but as soon as

a man has ravished or robbed, it holds out to him a strong motive to follow up his crime with a murder.

If murder were punished with something more than simple death; if the murderer were broken on the wheel or burned alive, there would not be the same objection to punishing with death those crimes which in atrocity approach nearest to murder. But such a system would be open to other objections so obvious that it is unnecessary to point them out. The highest punishment which we propose is the simple privation of life; and the highest punishment, be it what it may, ought not, for the reason which we have given, to be assigned to any crime against the person which stops short of murder. And it is hardly necessary to point out to his Lordship in Council how great a shock would be given to public feeling if, while we propose to exempt from the punishment of death the most atrocious personal outrages which stopped short of murder, we were to inflict that punishment even in the worst cases of theft, cheating, or mischief.

It will be seen that, throughout the code, wherever we have made any offence punishable by transportation, we have provided that the transportation shall be for life. The consideration which has chiefly determined us to retain that mode of punishment is our persuasion that it is regarded by the natives of India, particularly by those who live at a distance from the sea, with peculiar fear. The pain which is caused by punishment is unmixed evil. It is by the terror which it inspires that it produces good; and perhaps no punishment inspires so much terror in proportion to the actual pain which it causes as the punishment of transportation in this country. Prolonged imprisonment may be more painful in the actual endurance; but it is not so much dreaded beforehand; nor does a sentence of imprisonment strike either the offender or the bystanders with so much horror as a sentence of exile beyond what they call the Black Water. This feeling, we believe, arises chiefly from the mystery which overhangs the fate of the transported convict. The separation resembles that which takes place at the moment of death. The criminal is taken forever

from the society of all who are acquainted with him, and conveyed by means of which the natives have but an indistinct notion over an element which they regard with extreme awe, to a distant country of which they know nothing, and from which he is never to return. It is natura. that his fate should impress them with a deep feeling of terror. It is on this feeling that the efficacy of the punishment depends, and this feeling would be greatly weakened if transported convicts should frequently return, after an exile of seven or fourteen years, to the scene of their offences, and to the society of their former friends.

We may observe that the rule which we propose to lay down is already in force in almost every part of British India. The Courts established by the Royal Charters and Courts Martial are at present the only Courts which sentence offenders to transportation for any term short of life. In the case of European offenders who are condemned to long terms of imprisonment, we allow the Government to commute imprisonment for transportation not perpetual. But in that case we are of opinion that in general the transported criminal ought not, after the expiration of the term for which he is transported, to be allowed to return to India. This rule and the reasons for it will be considered hereafter.

Of imprisonment we propose to institute two grades, rigorous imprisonment and simple imprisonment. But we do not think the penal code the proper place for describing with minuteness the nature of either kind of punishment.

We entertain a confident hope that it will shortly be found practicable greatly to reduce the terms of imprisonment which we propose. Where a good system of prison discipline exists, where the criminal, without being subject to any cruel severities, is strictly restrained, regularly employed in labour not of an attractive kind, and deprived of every indulgence not necessary to his health, a year's confinement will generally prove as efficacious as confinement for two years in a gaol where the superintendence is lax, where the work exacted is light, and where the convicts find means of enjoying as many luxuries as if they were at

liberty. As the intensity of the punishment is increased, its length may safely be diminished. As members of the committee which is now employed in investigating the system followed in the gaols of this country, we have had access to information which enables us to say with confidence that, in this department of the administration, extensive reforms are greatly needed, and may easily be made. The researches of that committee will, we hope, enable the Law Commission hereafter to prepare such a code of prison discipline as, without shocking the humane feelings of the community, may yet be a terror to the most hardened wrong-doers. Whenever such a code shall come into operation, we conceive that it will be advisable greatly to shorten many of the terms of imprisonment which we have proposed.

It will be seen that we have given to the Government a power of commuting sentences in certain cases without the consent of the offender. Some of the rules which we have laid down on this subject will be universally allowed to be proper. It is evidently fit that the Government should be empowered to commute the sentence of death for any other punishment provided by the code. It seems to us also very desirable that the Government should have the power of commuting perpetual transportation for perpetual imprisonment. Many circumstances of which the executive authorities ought to be accurately informed, but which must often be unknown to the ablest judge, may, at particular times, render it highly inconvenient to carry a sentence of transportation into effect. The state of those remote provinces of the empire in which convict settlements are established, and the way in which the interest of those provinces may be affected by any addition to the convict population, are matters which lie altogether out of the cognizance of the tribunals by which those sentences are passed, and which the Government only is competent to decide.

The provisions contained in clauses 43 and 44 are more likely to cause difference of opinion. We are satisfied that both humanity and policy require that those provisions, or provisions very similar to them, should be adopted.

The physical difference which exists between the European and the native of India renders it impossible to subject them to the same system of prison discipline. It is most desirable, indeed, that in the treatment of offenders convicted of the same crime and sentenced to the same punishment there should be no apparent inequality. But it is still more desirable that there should be no real inequality, and there must be real inequality unless there be apparent inequality. It would be cruel to subject an European for a long period to a severe prison discipline, in a country in which existence is almost constant misery to an European who has not many indulgences at his command. If not cruel, it would be impolitic. It is unnecessary to point out to his Lordship in Council how desirable it is that our national character should stand high in the estimation of the inhabitants of India, and how much that character would be lowered by the frequent exhibition of Englishmen of the worst description, placed in the most degrading situations, stigmatised by the courts of justice, and engaged in the ignominious labour of a gaol.

As there are strong reasons for not punishing Europeans with imprisonment of the same description with which we propose to punish natives, so there are reasons equally strong for not suffering Europeans who have been convicted of serious crimes to remain in this country. As we are satisfied that nothing can add more strength to the Government, or can be more beneficial to the people, than the free admission of honest, industrious, and intelligent Englishmen, so we are satisfied that no greater calamity could befall either the Government or the people than the influx of Englishmen of lawless habits and blasted character. Such men are of the same race and colour with the rulers of the country, they speak the same language, they wear the same garb. In all these things they differ from the great body of the population. It is natural and inevitable that in the minds of a people accustomed to be governed by Englishmen, the idea of an Englishman should be associated with the idea of Government. Every Englishman participates in the power of Government, though he holds no office. His vices

reflect disgrace on the Government, though the Government gives him no countenance.

It was probably on these grounds that Parliament, at the same time at which it threw open a large part of India to British-born subjects of the King, directed the local legislature to provide against those dangers which might be expected from an influx of such settlers. No regulation can, in our opinion, promote more effectually, or in a more unexceptionable manner, the end which Parliament had in view than that which we now propose.

We recommend that, whenever a person, not both of Asiatic birth and of Asiatic blood, commits an offence so serious that he is sentenced to two years of simple imprisonment, or to one year of rigorous imprisonment, it shall be competent to the Government to commute that punishment for banishment from the territories of the East India Company.

If a person of unmixed European blood should commit an offence so heinous as to be visited with a sentence of imprisonment for seven years or more, we would give to the Government the power of substituting an equal term of transportation for that term of imprisonment, and of excluding the offender, after the expiration of the term of transportation, from the territories of the East India Company. The Government would, doubtless, make arrangements for transporting such offenders to some British colony situated in a temperate climate.

In the great majority of cases we believe that this commutation of punishment would be most welcome to an European offender. But however this may be, we are satisfied that it is for the interest both of the British Government and of the Indian people that the executive authorities should possess the power which we propose to confide to them.

The forfeiture of property is a punishment which we propose to inflict only on persons guilty of high political offences. The territorial possessions of such persons often enable them to disturb the public peace, and to make head against the Government; and it seems reasonable that they should be deprived of so dangerous a power.

Fine is one of the most common punishments in every part of the world, and it is a punishment the advantages of which are so great and obvious, that we propose to authorise the Courts to inflict it in every case, except where forfeiture of all property is necessarily part of the punishment. Yet the punishment of fine is open to some objections. Death, imprisonment, transportation, banishment, solitude, compelled labour, are not, indeed, equally disagreeable to all men. But they are so disagreeable to all men that the legislature, in assigning these punishments to offences, may safely neglect the differences produced by temper and situation. With fine, the case is different. In imposing a fine, it is always necessary to have as much regard to the pecuniary circumstances of the offender as to the character and magnitude of the offence. The mulct which is ruinous to a labourer is easily borne by a tradesman, and is absolutely unfelt by a rich zemindar.

It is impossible to fix any limit to the amount of a fine which will not either be so high as to be ruinous to the poor, or so low as to be no object of terror to the rich. There are many millions in India who would be utterly unable to pay a fine of fifty rupees; there are hundreds of thousands from whom such a fine might be levied, but whom it would reduce to extreme distress; there are thousands to whom it would give very little uneasiness; there are hundreds to whom it would be a matter of perfect indifference, and who would not cross a room to avoid it. The number of the poor in every country exceeds in a very great ratio the number of the rich. The number of poor criminals exceeds the number of rich criminals in a still greater ratio. And to the poor criminal it is a matter of absolute indifference whether the fine to which he is liable be limited or not, unless it be so limited as to render it quite inefficient as a mode of punishing the rich. To a man who has no capital, who has laid by nothing, whose monthly wages are just sufficient to provide himself and his family with their monthly rice, it matters not whether the fine for assault be left to be settled by the discretion of the Courts, or whether a hundred rupees be fixed as the maximum. There are no

degrees in impossibility. He is no more able to pay a hundred rupees than to pay a lac. A just and wise judge, even if entrusted with a boundless discretion, will not, under ordinary circumstances, sentence such an offender to a fine of a hundred rupees. And the limit of a hundred rupees would leave it quite in the power of an unjust or inconsiderate judge to inflict on such an offender all the evil which can be inflicted on him by means of fine.

If, in imitation of Mr. Livingston, we provide that no fine shall exceed one fourth of the amount of the offender's property, no serious fine will ever be imposed in this country without a long and often a most unsatisfactory investigation, in which it would be necessary to decide many obscure questions of right purposely darkened by every artifice of chicanery. And even if this great practical difficulty did not exist, we should see strong objections to such a provision in a very large class of cases. Take the case of a corrupt judge who has accumulated a lac of rupees by his illicit practices. A fine which should deprive such a man of the whole of his fortune would not appear to us excessive: and certainly we should think it most undesirable that he should be allowed to retain 75,000 rupees of his ill-gotten gains. Again, take the case of a man who has been suborned to commit perjury, and has received a great bribe for doing so. Such a man may have little or no property, except what he has received as a bribe: yet it is evidently desirable that he should be compelled to disgorge the whole. No man ought ever to gain by breaking the law; and if Mr. Livingston's rule were adopted in this country, many would gain by breaking the law. To punish a man for a crime, and yet to leave in his possession three fourths of the consideration which tempted him to commit the crime, is to hold out at once punishments for crime, and inducements to crime. It appears to us that the punishment of fine is a peculiarly appropriate punishment for all offences to which men are prompted by cupidity; for it is a punishment which operates directly on the very feeling which impels men to such offences. A man who has been guilty of great offences arising from cupidity, of forging a bill of

exchange, for example, of keeping a receptacle for stolen goods, or of extensive embezzlement, ought, we conceive, to be so fined as to reduce him to poverty. That such a man should, when his imprisonment is over, return to the enjoyment of three fourths of his property, a property which may be very large, and which may have been accumulated by his offences, appears to us highly objectionable. Those persons who are most likely to commit such offences would often be less deterred by knowing that the offender had passed several years in imprisonment, than encouraged by seeing him, after his liberation, enjoying the far larger part of his wealth.

We have never seen any general rule for the limiting of fine, which we are disposed to adopt. The difficulty of framing a rule has evidently been felt by many eminent men. The authors of the Bill of Rights, with many instances of gross abuse fresh in their recollection, could devise no other rule than that excessive fines should not be imposed. And the authors of the Constitution of the United States, after the experience of another century, contented themselves with repeating the words of the Bill of Rights.

It will be seen that in cases which are not very heinous we propose to limit the amount of fine which the Courts may impose. But in serious cases we have left the amount of fine absolutely to their discretion; and we feel, as we have said, that, even in the cases where we have proposed a limit, such a limit will be no protection to the poor, who in every community are also the many. We feel that the extent of the discretion which we have thus left to the Courts is an evil, and that no sagacity and no rectitude of intention can secure a judge from occasional error. We conceive, however, that if fine is to be employed as a punishment, — and no judicious person, we are persuaded, would propose to dispense with it, — this evil must be endured. We shall attempt in the code of procedure to establish such a system of appeal as may prevent gross or frequent injustice from taking place.

The next question which it became our duty to consider was this: — when a fine has been imposed, what measures

shall be adopted in default of payment? And here two modes of proceeding, with both of which we were familiar, naturally occurred to us. The offender may be imprisoned till the fine is paid, or he may be imprisoned for a certain term, such imprisonment being considered as standing in place of the fine. In the former case, the imprisonment is used in order to compel him to part with his money; in the latter case, the imprisonment is a punishment substituted for another punishment. Both modes of proceeding appear to us to be open to strong objections. To keep an offender in imprisonment till his fine is paid is, if the fine be beyond his means, to keep him in imprisonment all his life; and it is impossible for the best judge to be certain that he may not sometimes impose a fine which shall be beyond the means of an offender. Nothing could make such a system tolerable except the constant interference of some authority empowered to remit sentences; and such constant interference we should consider as in itself an evil. On the other hand, to sentence an offender to fine and to a certain fixed term of imprisonment in default of payment, and then to leave it to himself to determine whether he will part with his money or lie in gaol, appears to us to be a very objectionable course. The high authority of Mr. Livingston is here against us. He allows the criminal, if sentenced to a fine exceeding one fourth of his property, to compel the judge to commute the excess for imprisonment at the rate of one day of imprisonment for every two dollars of fine, and he adds, that such imprisonment must in no case exceed ninety days. We regret that we cannot agree with him. The object of the penal law is to deter from offences, and this can only be done by means of inflictions disagreeable to offenders. The law ought not to inflict punishments unnecessarily severe; but it ought not, on the other hand, to call the offender into council with his judges, and to allow him an option between two punishments. In general, the circumstance that he prefers one punishment raises a strong presumption that he ought to suffer the other. The circumstance that the love of money is a stronger passion in his mind than the love of personal liberty is, as far

as it goes, a reason for our availing ourselves rather of his love of money than of his love of personal liberty for the purpose of restraining him from crime. To look out systematically for the most sensitive part of a man's mind, in order that we may not direct our penal sanctions towards that part of his mind, seems an injudicious policy.

We are far from thinking that the course which we propose is unexceptionable; but it appears to us to be less open to exception than any other which has occurred to us. We propose that, at the time of imposing a fine, the Court shall also fix a certain term of imprisonment which the offender shall undergo in default of payment. In fixing this term the Court will in no case be suffered to exceed a certain maximum, which will vary according to the nature of the offence. If the offence be one which is punishable with imprisonment as well as fine, the term of imprisonment in default of payment will not exceed one fourth of the longest term of imprisonment fixed by the code for the offence. If the offence be one which by the code is punishable only with fine, the term of imprisonment for default of payment will in no case exceed seven days.

But we do not mean that this imprisonment shall be taken in full satisfaction of the fine. We cannot consent to permit the offender to choose whether he will suffer in his person or in his property. To adopt such a course would be to grant exemption from the punishment of fine to those very persons on whom it is peculiarly desirable that the punishment of fine should be inflicted, to those very persons who dislike that punishment most, and whom the apprehension of that punishment would be most likely to restrain. We therefore propose that the imprisonment which an offender has undergone shall not release him from the pecuniary obligation under which he lies. His person will, indeed, cease to be answerable for the fine; but his property will for a time continue to be so. What we recommend is, that at any time during a certain limited period the fine may be levied on his effects by distress. If the fine is paid or levied while he is imprisoned for default of payment, his imprisonment will immediately terminate; and if

a portion of the fine be paid during the imprisonment, a proportional abatement of the imprisonment will take place.

It may perhaps appear to some persons harsh to imprison a man for non-payment of a fine, and, after he has endured his imprisonment, to take his property by distress in order to realise the fine. But this harshness is rather apparent than real. If the offender, having the means of paying the fine, chooses rather to lie in prison than to part with his money, his case is the very case in which it is most desirable that the fine should be levied, and he is the very convict who has least claim to indulgence. The confinement which he has undergone may be regarded as no more than a reasonable punishment for his obstinate resistance to the due execution of his sentence. If the offender has not the means of paying the fine while he continues liable to it, he will be quit for his imprisonment. There remains another case, — that of an offender who, being really unable to pay his fine, lies in prison for a term, and within six years after his sentence acquires property. This case is the only case in which it can, with any plausibility, be maintained that the law, as we have framed it, would operate harshly. Even in this case, it is evident that our law will operate far less harshly than a law which should provide that an offender sentenced to a fine should be imprisoned till the fine should be paid. Under both laws imprisonment is inflicted ; under both a fine is exacted. But the one law liberates the offender on payment of the fine, and also fixes a limit beyond which he cannot be detained in gaol, whether the fine be paid or no. The other law keeps him in confinement till the money is actually paid. It is, therefore, at least as severe as ours on his property, and is immeasurably more severe on his person.

In fact, we treat an offender who has been sentenced to fine more leniently than the law now treats a debtor either in England or in this country. By the English law, an insolvent not in trade is kept in confinement till he has surrendered all his property, till he has answered interrogatories respecting it, till the Court is satisfied that he has paid all that he can pay. Even when his person is liber-

ated, his future acquisitions still continue to be liable to the claims of his creditors. The law throughout British India is in principle the same with the law of England. The offender who has been sentenced to fine must be considered as a debtor, and, as a debtor, not entitled to any peculiar lenity. It will be difficult to show on what principles a creditor ought to be allowed to employ, for the purpose of recovering a debt from a person who is perhaps only unfortunate, a more stringent mode of procedure than that which the State employs for the purpose of realising a fine from the property of a criminal. If a temporary imprisonment for debt ought not to cancel the claim of the private creditor, neither ought a temporary imprisonment in default of payment of a fine to cancel the claims of public justice.

It is undoubtedly easy to put cases in which this part of the law will operate more severely than we could wish; and so it is easy to put cases in which every penal clause in the code would operate more severely than we could wish. This is an evil inseparable from all legislation. General rules must be framed; and it is absolutely impossible to frame general rules which shall suit all particular cases. It is sufficient if the rule be, on the whole, more beneficial than any other general rule which can be suggested. Those particular cases in which a rule generally beneficial may operate too harshly must be left to the merciful consideration of the Executive Government. We are satisfied that the punishment of fine would, under the arrangement which we propose, be found to be a most efficacious punishment in a large class of cases. We are satisfied that if offenders are allowed to choose between imprisonment and fine, fine will lose almost its whole efficacy, and will never be inflicted on those who dread it most.

Closely connected with these questions respecting the punishment of fine is another question of the highest importance, which indeed belongs rather to the law of civil rights and to the law of procedure than to the penal law, but respecting which we are desirous to place on record the opinion which we have formed, after much reflection and discussion.

In a very large proportion of criminal cases there is good ground for a civil as well as for a penal proceeding. The English law, most erroneously in our opinion, allows no civil claim for reparation in cases where injury has been caused by an offence amounting to felony. Thus a person is entitled to reparation for what he has lost by petty fraud, but to none if he has been cheated by means of a forged bill of exchange. He is entitled to reparation if his coat has been torn, but to none if his house has been maliciously burned down. He is entitled to reparation for a slap on the face, but to none for having his nose maliciously slit, or his ears cut off. A woman is entitled to reparation for a breach of promise of marriage, but to none for a rape. To us it appears that of two sufferers, he who has suffered the greater harm has, *cæteris paribus*, the stronger claim to compensation; and that of two offences, that which produces the greater harm ought, *cæteris paribus*, to be visited with the heavier punishment. Hence it follows that in general the strongest claims to compensations will be the claims of persons who have been injured by highly penal acts; and that to refuse reparation to all sufferers who have been injured by highly penal acts is to refuse reparation to that very class of sufferers who have the strongest claim to it.

We are decidedly of opinion that every person who is injured by an offence ought to be legally entitled to a compensation for the injury. That the offence is a very serious one, far from being a reason for thinking that he ought to have no compensation, is *primâ facie* a reason for thinking that the compensation ought to be very large.

Entertaining this opinion, we are desirous that the law of criminal procedure should be framed in such a manner as to facilitate the obtaining of reparation by the sufferer. We are inclined to think that an arrangement might be adopted under which one trial would do the work of two. We conceive that, in every case in which fine is part of the punishment of an offence, it ought to be competent to the tribunal which has tried the offender, acting under proper checks, to award the whole or part of the fine to the sufferer, provided that the sufferer signifies his willingness to receive what is

so awarded in full satisfaction of his civil claim for reparation. If the Criminal Court shall not make such an award, or if the sufferer shall not be satisfied with such an award, he must be left to his civil action. But if, in such an action, he recovers damages, the fine ought, in our opinion, to be employed, as far as the fine will go, in satisfying those damages.

The plan we propose would not be open to the strong and indeed unanswerable objections which Mr. Livingston has urged against the plan of blending a civil and criminal trial together. Yet we think it likely that our plan would in a great majority of cases render a civil proceeding unnecessary. We are happy to be able to quote the high authority of Mr. Livingston in favour of the doctrine that every fine imposed for an offence ought to be expended, as far as it will go, in paying any damages which may be due in consequence of injury caused by that offence.

This course seems to be the only course consistent with justice to either party. It is most unjust to the man who has been disabled by a wound, or ruined by a forgery, that the Government should take, under the name of fine, so large a portion of the offender's property as to leave nothing to the sufferer. In general, the greater the injury the greater ought to be the fine. On the other hand, the greater the injury the greater ought to be the compensation. If, therefore, the Government keeps whatever it can raise in the way of fine, it follows that the sufferer who has the greatest claim to compensation will be least likely to obtain it. By empowering the Courts to grant damages out of the fine, and by making the fine after it has reached the treasury of the Government answerable for the damages which the sufferer may recover in a Civil Court, we avoid this injustice.

Nor is this arrangement required only by justice to the sufferer. It is also required by justice to the offender. However atrocious his crime may have been, he ought not to be subjected to any punishment beyond what the public interest demands. And we depart from this principle if, when a single payment would effect all that is required both

in the way of punishment and in the way of reparation, we impose two distinct payments, the one by way of punishment, and the other by way of reparation.

The principles on which a Court proceeds in imposing a fine are quite different from those on which it proceeds in assessing damages. A fine is meant to be painful to the person paying it. But civil damages are not meant to cause pain to the person who pays them. They are meant solely to compensate the plaintiff for evil suffered. They cause pain undoubtedly to the person who has to pay them. But this pain is merely incidental; nor ought the amount of damages at all to depend on the degree of depravity which the wrong-doer has shown, except in so far as that depravity may have increased the evil endured by the sufferer. If A., by mere inadvertence, drives the pole of his carriage against Z.'s valuable horse, and thus kills the horse, A. has committed an action infinitely less reprehensible than if he kills the horse by laying poison secretly in its food. The former act would probably not fall at all under the cognizance of the Criminal Courts. The latter act would be severely punished. But the payment to which Z. has a civil claim is in both cases exactly the same, the value of the horse, and a compensation for any expense and inconvenience which the loss of the horse may have occasioned. That A. has committed no offence is no reason for giving Z. less than his full damages; that A. has committed a most wicked and malignant offence is no reason for giving Z. more than his full damages. If a mere inadvertence cause a great loss, the damages ought to be high. If the most atrocious crime cause a small loss, the damages ought to be low. They are fixed on a principle quite different from that according to which penal laws are framed and administered.

Here then are two payments required from one person on account of one transaction. The object of the one payment is to give him pain, and the amount of that payment must be supposed to be sufficient to give him as much pain as it is desirable to inflict on him in that form. The object of the other payment is not at all to give pain to the payer,

but solely to save another person from loss. It does, indeed, incidentally give pain to the payer; but it is not imposed for that end, nor is it proportioned to the degree in which it may be fit that the payer should suffer pain. Surely under such circumstances justice to the payer requires that the former payment should, as far as it will go, serve both purposes, and that if in the very act of enduring punishment he can make reparation, he should be permitted to do so.

We have now said all that we at present think it necessary to say respecting the punishments provided in the code. It may be fit that we should explain why some others are omitted.

We have thought it unnecessary to place incapacitation for office, or dismissal from office, in the list of punishments. It will always be in the power of the Government to dismiss from office and to exclude from office even persons against whom there is no legal evidence of guilt. It will always be in the power of the Government, by an act of grace, to admit to office even those who may have been dismissed. We therefore propose that the power of inflicting this penalty shall be left in form, as it must be left in reality, to the Government.

We also considered whether it would be advisable to place in the list of punishments the degrading public exhibition of an offender on a pillory, after the English fashion, or on an ass, in the manner usual in this country. We are decidedly of opinion that it is not advisable to inflict that species of punishment.

Of all punishments this is evidently the most unequal. It may be more severe than any punishment in the code. It may be no punishment at all. If inflicted on a man who has quick sensibility, it is generally more terrible than death itself. If inflicted on a hardened and impudent delinquent, who has often stood at the bar, and who has no character to lose, it is a punishment less serious than an hour of the treadmill. It derives all its terrors from the higher and better parts of the character of the sufferer; its severity is therefore in inverse proportion to the necessity for severity.

An offender who, though he has been drawn into crime by temptation, has not yet wholly given himself up to wickedness and discarded all regard for reputation, is an offender with whom it is generally desirable to deal gently. He may still be reclaimed. He may still become a valuable member of society. On the other hand, the criminal for whom disgrace has no terrors, who dreads nothing but physical suffering, restraint, and privation, and who laughs at infamy, is the very criminal against whom the whole rigour of the law ought to be put forth. To employ a punishment which is more bitter than the bitterness of death to the man who has still some remains of virtuous and honourable feeling, and which is mere matter of jest to the utterly abandoned villain, appears to us most unreasonable.

If it were possible to devise a punishment which should give pain proportioned to the degree in which the offender was shameless, hard-hearted, and abandoned to vice, such a punishment would be the most effectual means of protecting society. On the other hand, of all punishments the most absurd is that which produces pain proportioned to the degree in which the offender retains the sentiments of an honest man.

This argument proceeds on the supposition that the public exposure of the criminal has no other terrors than those which it derives from his sensibility to shame. The English pillory, indeed, had terrors of a very different kind. The offender was, even in our own time, given up with scarcely any protection to the utmost ferocity of the mob. Such a mode of punishment is, indeed, free from one objection which we have urged against simple exposure; for it is an object of terror to the most hardened criminal. But it is open to other objections so obvious, that it is unnecessary to bring them to the notice of his Lordship in Council. That the amount of punishment should be determined, not by the law or by the tribunals, but by a throng of people accidentally congregated, among whom the most ignorant and brutal would always on such an occasion be the most forward, would be a disgrace to an age and country pretending to civilisation. We take it for granted that the punish-

ment which we are considering, if inflicted in any part of India subject to the British Government, would consist in degrading exposure, and nothing more. That punishment, we repeat, while it would be a mere subject of mockery to shameless and abandoned delinquents, would, when inflicted on men who have filled respectable stations and borne respectable characters, be so cruel that it would become justly more odious to the public than the very offences which it was intended to repress.

We have not thought it desirable to place flogging in the list of punishments. If inflicted for atrocious crimes with a severity proportioned to the magnitude of those crimes, that punishment is open to the very serious objections which may be urged against all cruel punishments, and which are so well known that it is unnecessary for us to recapitulate them. When inflicted on men of mature age, particularly if they be of decent stations in life, it is a punishment of which the severity consists, to a great extent, in the disgrace which it causes; and to that extent the arguments which we have used against public exposure apply to flogging.

It has been represented to us by some functionaries in Bengal, that the best mode of stimulating the lower officers of police to the active discharge of their duties is by flogging, and that since the abolition of that punishment in this presidency, the magistrates of the lower provinces have found great difficulty in managing that class of persons.

This difficulty has not been experienced in any other part of India. We therefore cannot, without much stronger evidence than is now before us, believe that it is impracticable to make the police officers of the lower provinces efficient without resorting to corporal punishment. The objections to the old system are obvious. To inflict on a public servant, who ought to respect himself and to be respected by others, an ignominious punishment, which leaves an indelible mark, and to suffer him still to remain a public servant, to place a stigma on him which renders him an object of contempt to the mass of the population, and to continue to entrust him with any portion, however small, of

the powers of Government, appears to us to be a course which nothing but the strongest necessity can justify.

The moderate flogging of young offenders for some petty offences is not open, at least in any serious degree, to the objections which we have stated. Flogging does not inflict on a boy that sort of ignominy which it causes to a grown man. Up to a certain age, boys, even of the higher classes, are often corrected with stripes by their parents and guardians: and this circumstance takes away a considerable part of the disgrace of stripes inflicted on a boy by order of a magistrate. In countries where a bad system of prison discipline exists, the punishment of flogging has in such cases one great advantage over that of imprisonment. The young offender is not exposed even for a day to the contaminating influence of an ill-regulated gaol. It is our hope and belief, however, that the reforms which are now under consideration will prevent the gaols of India from exercising any such contaminating influence; and, if that should be the case, we are inclined to think that the effect of a few days passed in solitude or in hard and monotonous labour would be more salutary than that of stripes.

Being satisfied, therefore, that the punishment of flogging can be proper only in a few cases, and not being satisfied that it is necessary in any, we are unwilling to advise the Government to retrace its steps, and to reëstablish throughout the British territories a practice which, by a policy unquestionably humane and by no means proved to have been injudicious, has recently been abolished through a large part of those territories.

The only remaining point connected with this chapter, to which we wish to call the attention of his Lordship in Council, is the provision contained in clause 61. This provision is intended to prevent an offender whose guilt is fully established from eluding punishment, on the ground that the evidence does not enable the tribunals to pronounce with certainty under what penal provision his case falls.

Where the doubt is merely between an aggravated and mitigated form of the same offence, the difficulty will not be great. In such cases the offender ought always to be con-

victed of the minor offence. But the doubt may be between two offences, neither of which is a mitigated form of the other. The doubt, for example, may lie between murder and the aiding of murder. It may be certain, for example, that either A. or B. murdered Z., and that whichever was the murderer was aided by the other in the commission of the murder; but which committed the murder, and which aided the commission, it may be impossible to ascertain. To suffer both to go unpunished, though it is certain that both are guilty of capital crimes, merely because it is doubtful under what clause each of them is punishable, would be most unreasonable. It appears to us that a conviction in the alternative has this recommendation, that it is altogether free from fiction, that it is exactly consonant to the truth of the facts. If the Court find both A. and B. guilty of murder, or of aiding murder, the Court affirms that which is not literally true; and on all occasions, but especially in judicial proceedings, there is a strong presumption in favour of literal truth. If the Court finds that A. has either murdered Z. or aided B. to murder Z., and that B. has either murdered Z. or aided A. to murder Z., the Court finds that which is the literal truth; nor will there, under the rule which we have laid down, be the smallest difficulty in prescribing the punishment.

It is chiefly in cases where property has been fraudulently appropriated that the necessity for such a provision as that which we are considering will be felt. It will often be certain that there has been a fraudulent appropriation of property; and the only doubt will be, whether this fraudulent appropriation was a theft or a criminal breach of trust. To allow the offender to escape unpunished on account of such a doubt would be absurd. To subject him to the punishment of theft, which is the higher of the two crimes between which the doubt lies, would be grossly unjust. The punishment to which he ought to be liable is evidently that of criminal breach of trust. But that a Court should convict an offender of a criminal breach of trust, when the opinion of the Court perhaps is, that it is an even chance, or more than an even chance, that no trust was ever reposed in him,

seems to us an objectionable mode of proceeding. We will not, in this stage of our labours, venture to lay it down as an unbending rule that the tribunals ought never to employ phrases which, though literally false, are conventionally true. Yet we are fully satisfied that the presumption is always strongly in favour of that form of expression which accurately sets forth the real state of the facts. In the case which we have supposed, the real state of the facts is, that the offender has certainly committed either theft or criminal breach of trust, and that the Court does not know which. This ought, therefore, in our opinion, to be the form of the judgment.

The details of the law on this subject must, of course, be reserved for the code of procedure. But the provision which directs the manner in which the punishment is to be calculated appears properly to belong to the penal code.

NOTE (B).

ON THE CHAPTER OF GENERAL EXCEPTIONS.

This chapter has been framed in order to obviate the necessity of repeating in every penal clause a considerable number of limitations.

Some limitations relate only to a single provision, or to a very small class of provisions. Thus the exception in favour of true imputations on character (clause 470) is an exception which belongs wholly to the law of defamation, and does not affect any other part of the code. The exception in favour of the conjugal rights of the husband (clause 359) is an exception which belongs wholly to the law of rape, and does not affect any other part of the code. Every such exception evidently ought to be appended to the rule which it is intended to modify.

But there are other exceptions which are common to all the penal clauses of the code, or to a great variety of clauses dispersed over many chapters. Such are the exceptions in

favour of infants, lunatics, idiots, persons under the influence of delirium ; the exceptions in favour of acts done by the direction of the law, of acts done in the exercise of the right of self-defence, of acts done by the consent of the party harmed by them. It would obviously be inconvenient to repeat these exceptions several times in every page. We have, therefore, placed them in a separate chapter, and we have provided that every definition of an offence, every penal provision, and every illustration of a definition or penal provision, shall be construed subject to the provisions contained in that chapter. Most of those explanations appear to us to require no explanation or defence. But the meaning and the ground of the rules laid down in clause 69 and in the three following clauses may not be obvious at first sight. On these, therefore, we wish to make a few observations.

We conceive the general rule to be, that nothing ought to be an offence by reason of any harm which it may cause to a person of ripe age who, undeceived, has given a free and intelligent consent to suffer that harm or to take the risk of that harm. The restrictions by which the rule is limited affect only cases where human life is concerned. Both the general rule and the restrictions may, we think, be easily vindicated.

If Z., a grown man, in possession of all his faculties, directs that his valuable furniture shall be burned, that his pictures shall be cut to rags, that his fine house shall be pulled down, that the best horses in his stable shall be shot, that his plate shall be thrown into the sea, those who obey his orders, however capricious those orders may be, however deeply Z. may afterwards regret that he gave them, ought not, as it seems to us, to be punished for injuring his property. Again, if Z. chooses to sell his teeth to a dentist, and permits the dentist to pull them out, the dentist ought not to be punished for injuring Z.'s person. So if Z. embraces the Mahomedan religion, and consents to undergo the painful rite which is the initiation into that religion, those who perform the rite ought not to be punished for injuring Z.'s person.

The reason on which the general rule which we have

mentioned rests is this, that it is impossible to restrain men of mature age and sound understanding from destroying their own property, their own health, their own comfort, without restraining them from an infinite number of salutary or innocent actions. It is by no means true that men always judge rightly of their own interest. But it is true that, in the vast majority of cases, they judge better of their own interest than any lawgiver, or any tribunal, which must necessarily proceed on general principles, and which cannot have within its contemplation the circumstances of particular cases and the tempers of particular individuals, can judge for them. It is difficult to conceive any law which should be effectual to prevent men from wasting their substance on the most chimerical speculations, and yet which should not prevent the construction of such works as the Duke of Bridgewater's canals. It is difficult to conceive any law which should prevent a man from capriciously destroying his property, and yet which should not prevent a philosopher, in a course of chemical experiments, from dissolving a diamond, or an artist from taking ancient pictures to pieces, as Sir Joshua Reynolds did, in order to learn the secret of the colouring. It is difficult to conceive any law which should prevent a man from capriciously injuring his own health, and yet which should not prevent an artisan from employing himself in callings which are useful and indeed necessary to society, but which tend to impair the constitutions of those who follow them, or a public-spirited physician from inoculating himself with the virus of a dangerous disease. It is chiefly, we conceive, for this reason, that almost all Governments have thought it sufficient to restrain men from harming others, and have left them at liberty to harm themselves.

But though in general we would not punish an act on account of any harm which it might cause to a person who had consented to suffer that harm, we think that there are exceptions to this rule, and that the case in which death is intentionally inflicted is an exception.

It appears to us that the reasons which render it highly inexpedient to inflict punishment in ordinary cases of harm

done by consent of the person harmed do not exist here. The thing prohibited is not, like the destruction of property, or like the mutilation of the person, a thing which is sometimes pernicious, sometimes innocent, sometimes highly useful. It is always, and under all circumstances, a thing which a wise lawgiver would desire to prevent, if it were only for the purpose of making human life more sacred to the multitude. We cannot prohibit men from destroying the most valuable effects, or from disfiguring the person of one who has given his unextorted and intelligent consent to such destruction or such disfiguration, without prohibiting at the same time gainful speculations, innocent luxuries, manly exercises, healing operations. But by prohibiting a man from intentionally causing the death of another, we prohibit nothing which we think it desirable to tolerate.

It seems to us clear, therefore, that no consent ought to be a justification of the intentional causing of death. Whether such intentional causing of death ought or ought not to be punished as murder is a distinct question, and will be considered elsewhere.

The next point which we have here to consider is how far consent ought to be a justification of the causing of death, when that causing of death is, in our nomenclature, voluntary, yet not intentional, that is to say, when the person who caused the death did not mean to cause it, but knew that he was likely to cause it.

In general we have made no distinction between cases in which a man causes an effect designedly, and cases in which he causes it with a knowledge that he is likely to cause it. If, for example, he sets fire to a house in a town at night, with no other object than that of facilitating a theft, but being perfectly aware that he is likely to cause people to be burned in their beds, and thus causes the loss of life, we punish him as a murderer. But there is, as it appears to us, a class of cases in which it is absolutely necessary to make a distinction. It is often the wisest thing that a man can do to expose his life to great hazard. It is often the greatest service that can be rendered to him to do what may very probably cause his death. He may labour under

a cruel and wasting malady which is certain to shorten his life, and which renders his life, while it lasts, useless to others and a torment to himself. Suppose that under these circumstances he, undeceived, gives his free and intelligent consent to take the risk of an operation which in a large proportion of cases has proved fatal, but which is the only method by which his disease can possibly be cured, and which, if it succeeds, will restore him to health and vigour. We do not conceive that it would be expedient to punish the surgeon who should perform the operation, though by performing it he might cause death, not intending to cause death, but knowing himself to be likely to cause it. Again; if a person attacked by a wild beast should call out to his friends to fire, though with imminent hazard to himself, and they were to obey the call, we do not conceive that it would be expedient to punish them, though they might by firing cause his death, and though when they fired they knew themselves to be likely to cause his death.

We propose, therefore, that it shall be no offence to do even what the doer knows to be likely to cause death if the sufferer being of ripe age has, undeceived, given a free and intelligent consent to stand the risk, and if the doer did not intend to cause death, but on the contrary, intended in good faith the benefit of the sufferer.

We have now explained the provisions contained in clauses 69 and 70. The cases to which the two next clauses relate bear a close affinity to those which we have just considered.

A lunatic may be in a state which makes it proper that he should be put into a strait waistcoat. A child may meet with an accident which may render the amputation of a limb necessary. But to put a strait waistcoat on a man without his consent is, under our definition, to commit an assault. To amputate a limb is, by our definition, voluntarily to cause grievous hurt, and, as sharp instruments are used, is a very highly penal offence. We have therefore provided, by clause 71, that the consent of the guardian of a sufferer who is an infant or who is of unsound mind shall, to a great extent, have the effect which the consent of the

sufferer himself would have, if the sufferer were of ripe age and sound mind.

That there should be some provision of this sort is evidently necessary. On the other hand, we feel that there is a considerable danger in allowing people to assume the office of judging for others in such cases. Every man always intends in good faith his own benefit, and has a deeper interest in knowing what is for his own benefit than any body else can have. That he gives a free and intelligent consent to suffer pain or loss, creates a strong presumption that it is good for him on the whole to suffer that pain or loss. But we cannot safely confide to him the interest of his neighbours in the same unreserved manner in which we confide to him his own, even when he sincerely intends to benefit his neighbours. Even parents have been known to deliver their children up to slavery in a foreign country, to inflict the most cruel mutilations on their male children, to sacrifice the chastity of their female children, and to do all this declaring, and perhaps with truth, that their object was something which they considered as advantageous to the children. We have therefore not thought it sufficient to require that on such occasions the guardian should act in good faith for the benefit of the ward. We have imposed several additional restrictions which, we conceive, carry their defence with them.

There yet remains a kindred class of cases which are by no means of rare occurrence. For example, a person falls down in an apoplectic fit. Bleeding alone can save him, and he is unable to signify his consent to be bled. The surgeon who bleeds him commits an act falling under the definition of an offence. The surgeon is not the patient's guardian, and has no authority from any such guardian; yet it is evident that the surgeon ought not to be punished. Again, a house is on fire. A person snatches up a child too young to understand the danger, and flings it from the house-top, with a faint hope that it may be caught in a blanket below, but with the knowledge that it is highly probable that it will be dashed to pieces. Here, though the child may be killed by the fall, though the person who

threw it down knew that it would very probably be killed, and though he was not the child's parent or guardian, he ought not to be punished.

In these examples there is what may be called a temporary guardianship justified by the exigency of the case and by the humanity of the motive. This temporary guardianship bears a considerable analogy to that temporary magistracy with which the law invests every person who is present when a great crime is committed, or when the public peace is concerned. To acts done in the exercise of this temporary guardianship, we extend by clause 72 a protection very similar to that which we have given to the acts of regular guardians.

Clause 73 is intended to provide for those cases which, though, from the imperfections of language, they fall within the letter of the penal law, are yet not within its spirit, and are all over the world considered by the public, and for the most part dealt with by the tribunals, as innocent. As our definitions are framed, it is theft to dip a pen in another man's ink, mischief to crumble one of his wafers, an assault to cover him with a cloud of dust by riding past him, hurt to incommode him by pressing against him in getting into a carriage. There are innumerable acts without performing which men cannot live together in society, acts which all men constantly do and suffer in turn, and which it is desirable that they should do and suffer in turn, yet which differ only in degree from crimes. That these acts ought not to be treated as crimes is evident, and we think it far better expressly to except them from the penal clauses of the code than to leave it to the judges to except them in practice; for if the code is silent on the subject, the judges can except these cases only by resorting to one of two practices which we consider as most pernicious, by making law, or by wresting the language of the law from its plain meaning.

We propose (clauses 74 to 84) to except from the operation of the penal clauses of the code large classes of acts done in good faith for the purpose of repelling unlawful aggressions. In this part of the chapter we have attempted

to define, with as much exactness as the subject appears to us to admit, the limits of the right of private defence. It may be thought that we have allowed too great a latitude to the exercise of this right; and we are ourselves of opinion that if we had been framing laws for a bold and high-spirited people, accustomed to take the law into their own hand, and to go beyond the line of moderation in repelling injury, it would have been fit to provide additional restrictions. In this country the danger is on the other side; the people are too little disposed to help themselves; the patience with which they submit to the cruel depredations of gang-robbers and to trespass and mischief committed in the most outrageous manner by bands of ruffians, is one of the most remarkable, and at the same time one of the most discouraging symptoms which the state of society in India presents to us. Under these circumstances we are desirous rather to rouse and encourage a manly spirit among the people than to multiply restrictions on the exercise of the right of self-defence. We are of opinion that all the evil which is likely to arise from the abuse of that right is far less serious than the evil which would arise from the execution of one person for overstepping what might appear to the Courts to be the exact line of moderation in resisting a body of dacoits.

We think it right, however, to say that there is no part of the code with which we feel less satisfied than this. We cannot accuse ourselves of any want of diligence or care. No portion of our work has cost us more anxious thought or has been more frequently re-written. Yet we are compelled to own that we leave it still in a very imperfect state; and though we do not doubt that it may be far better executed than it has been by us, we are inclined to think that it must always be one of the least exact parts of every system of criminal law.

We have now made such observations as appear to us to be required on the general exceptions which we propose. It is proper that we should next explain why we have not proposed any exception in favour of some classes of acts which, as some persons may think, are entitled to indulgence.

We long considered whether it would be advisable to except from the operation of the penal clauses of the code acts committed in good faith from the desire of self-preservation; and we have determined not to except them.

We admit, indeed, that many acts falling under the definition of offences ought not to be punished when committed from the desire of self-preservation; and for this reason, that, as the penal code itself appeals solely to the fears of men, it never can furnish them with motives for braving dangers greater than the dangers with which it threatens them. Its utmost severity will be inefficacious for the purpose of preventing the mass of mankind from yielding to a certain amount of temptation. It can, indeed, make those who have yielded to the temptation miserable afterwards. But misery which has no tendency to prevent crime is so much clear evil. It is vain to rely on the dread of a remote and contingent evil as sufficient to overcome the dread of instant death, or the sense of actual torture. An eminently virtuous man indeed will prefer death to crime; but it is not to our virtue that the penal law addresses itself; nor would the world stand in need of penal laws if men were virtuous. A man who refuses to commit a bad action, when he sees preparations made for killing or torturing him unless he complies, is a man who does not require the fear of punishment to restrain him. A man, on the other hand, who is withheld from committing crimes solely or chiefly by the fear of punishment, will never be withheld by that fear when a pistol is held to his forehead or a lighted torch applied to his fingers for the purpose of forcing him to commit a crime.

It would, we think, be mere useless cruelty to hang a man for voluntarily causing the death of others by jumping from a sinking ship into an overloaded boat. The suffering caused by the punishment is, considered by itself, an evil, and ought to be inflicted only for the sake of some preponderating good. But no preponderating good, indeed no good whatever, would be obtained by hanging a man for such an act. We cannot expect that the next man who feels the ship in which he is left descending into the waves,

and sees a crowded boat putting off from it, will submit to instant and certain death from fear of a remote and contingent death. There are men, indeed, who in such circumstances would sacrifice their own lives rather than risk the lives of others. But such men act from the influence of principles and feelings which no penal laws can produce, and which, if they were general, would render penal laws unnecessary. Again, a gang of dacoits, finding a house strongly secured, seize a smith, and by torture and threats of death induce him to take his tools and to force the door for them; here, it appears to us, that to punish the smith as a housebreaker would be to inflict gratuitous pain. We cannot trust to the deterring effect of such punishment. The next smith who may find himself in the same situation will rather take his chance of being, at a distant time, arrested, convicted, and sentenced to imprisonment, than incur certain and immediate death.

In the cases which we have put, some persons may perhaps doubt whether there ought to be impunity; but those very persons would generally admit that the extreme danger was a mitigating circumstance to be considered in apportioning the punishment. It might, however, with no small plausibility be contended that if any punishment at all is inflicted in such cases, that punishment ought to be not merely death, but death with torture; for the dread of being put to death by torture might possibly be sufficient to prevent a man from saving his own life by a crime; but it is quite certain, as we have said, that the mere fear of capital punishment which is remote, and which may never be inflicted at all, will never prevent him from saving his life. And *à fortiori*, the dread of a milder punishment will not prevent him from saving his life. Laws directed against offences to which men are prompted by cupidity, ought always to take from offenders more than those offenders expect to gain by crime. It would obviously be absurd to provide that a thief or a swindler should be punished with a fine not exceeding half the sum which he had acquired by theft or swindling; in the same manner, laws directed against offences to which men are prompted by fear ought

always to be framed in such a way as to be more terrible than the dangers which they require men to brave. It is on this ground, we apprehend, that a soldier who runs away in action is punished with a rigour altogether unproportioned to the moral depravity which his offence indicates. Such a soldier may be an honest and benevolent man, and irreproachable in all the relations of civil life; yet he is punished as severely as a deliberate assassin, and more severely than a robber or a kidnapper. Why is this? Evidently because, as his offence arises from fear, it must be punished in such a manner that timid men may dread the punishment more than they dread the fire of the enemy.

If all cases in which acts falling under the definition of offences are done from the desire of self-preservation were as clear as the cases which we have put of the man who jumps from a sinking ship into a boat, and of the smith who is compelled by dacoits to force a door for them, we should, without hesitation, propose to exempt this class of acts from punishment. But it is to be observed, that in both these cases the person in danger is supposed to have been brought into danger without the smallest fault on his own part, by mere accident, or by the depravity of others. If a captain of a merchantman were to run his ship on shore in order to cheat the insurers, and then to sacrifice the lives of others in order to save himself from a danger created by his own villainy; if a person who had joined himself to a gang of dacoits with no other intention than that of robbing, were at the command of his leader, accompanied with threats of instant death in case of disobedience, to commit murder, though unwillingly, the case would be widely different, and our former reasoning would cease to apply; for it is evident that punishment which is inefficacious to prevent a man from yielding to a certain temptation may often be efficacious to prevent him from exposing himself to that temptation. We cannot count on the fear which a man may entertain of being brought to the gallows at some distant time as sufficient to overcome the fear of instant death; but the fear of remote punishment may often overcome the motives which induce a man to league himself

with lawless companions, in whose society no person who shrinks from any atrocity that they may command can be certain of his life. Nothing is more usual than for pirates, gang-robbers, and rioters to excuse their crimes by declaring that they were in dread of their associates, and durst not act otherwise. Nor is it by any means improbable that this may often be true. Nay, it is not improbable that crews of pirates and gangs of robbers may have committed crimes which every one among them was unwilling to commit, under the influence of mutual fear; but we think it clear that this circumstance ought not to exempt them from the full severity of the law.

Again, nothing is more usual than for thieves to urge distress and hunger as excuses for their thefts. It is certain, indeed, that many thefts are committed from the pressure of distress so severe as to be more terrible than the punishment of theft, and than the disgrace which that punishment brings with it to the mass of mankind. It is equally certain that, when the distress from which a man can relieve himself by theft is more terrible than the evil consequences of theft, those consequences will not keep him from committing theft; yet it by no means follows that it is irrational to punish him for theft; for though the fear of punishment is not likely to keep any man from theft when he is actually starving, it is very likely to keep him from being in a starving state. It is of no effect to counteract the irresistible motive which immediately prompts to theft; but it is of great effect to counteract the motives to that idleness and that profusion which end in bringing a man into a condition in which no law will keep him from committing theft. We can hardly conceive a law more injurious to society than one which should provide that as soon as a man who had neglected his work, or who had squandered his wages in stimulating drugs, or gambled them away, had been thirty-six hours without food, and felt the sharp impulse of hunger, he might, with impunity, steal food from his neighbours.

We should therefore think it in the highest degree pernicious to enact that no act done under the fear even of

instant death should be an offence. It would *à fortiori* be absurd to enact that no act under the fear of any other evil should be an offence.

There are, as we have said, cases in which it would be useless cruelty to punish acts done under the fear of death, or even of evils less than death. But it appears to us impossible precisely to define these cases. We have, therefore, left them to the Government, which, in the exercise of its clemency, will doubtless be guided in a great measure by the advice of the Courts.

We considered whether it would be desirable to make any distinction between offences committed against freemen and offences committed against slaves. We certainly entered on the consideration of this important question with a strong leaning to the opinion that no such distinction ought to be made. We thought it our duty, however, not to come to a decision without obtaining information and advice from those who were best qualified to give it. We have collected information on the subject from every part of India, and we have now in our office a large collection of documents containing much that is curious, and that in future stages of the work in which we are engaged will be useful. At present we have only to consider the subject with reference to the penal code.

These documents have satisfied us that there is at present no law whatever defining the extent of the power of a master over his slaves; that everything depends on the disposition of the particular functionary who happens to be in charge of a district, and that functionaries who are in charge of contiguous districts, or who have at different times been in charge of the same district, hold diametrically opposite opinions as to what their official duty requires. Nor is this discrepancy found only in the proceedings of subordinate Courts. The Court of Nizamut Adawlut at Fort William lay down the law thus: "A master would not be punished, the Court opine, for inflicting a slight correction on his legal slave, such as a tutor would be justified in inflicting on a scholar, or a father on a child." The Court of Nizamut Adawlut at Allahabad take a quite different view of the

law: "Although," they say, "the Mahomedan law permits the master to correct his slave with moderation, the code by which the magistrates and other criminal authorities are bound to regulate their proceedings does not recognise any such power, and as the Regulations of the Government draw no distinction between the slave and the freeman in criminal matters, but place them both on a level, it is the practice of the Courts, following the principles of equal justice, to treat them both alike." The Court of Foujdarry Adawlut at Madras state, that it is not the practice of the Courts to make any distinction whatever in cases which come before them; that a circular order of the Foujdarry Adawlut recognises the right of a master to inflict corrections in certain cases, but that in practice no such distinction is made. We own that we entertain some doubts whether the practice be universally such as is supposed by the Foujdarry Adawlut. We perceive that two magistrates in the western division of the Madras Presidency differ from each other in opinion on this subject. The magistrate of Canara says, that "the right of the master to inflict punishment has been allowed, but only to a very small extent." The magistrate of Malabar states, that "the relation of a master and slave has never been recognised as justifying acts which would otherwise be punishable, or as constituting a ground for mitigation of punishment." The Court of Foujdarry Adawlut at Bombay has given no opinion on the point, and there is a great difference of opinion among the subordinate authorities in the Bombay Presidency. One gentleman conceives that the imposing of personal restraint is the only act otherwise punishable which the Courts would allow a master to commit when a slave might be concerned. Another conceives that a master has a power of correction similar to that of a father. A third goes further, and is of opinion, that "all but cases of very aggravated nature would be considered as entitled to exemption from or mitigation of punishment on this account." On the other hand, several gentlemen are of opinion that the relation of master and slave would not be considered by the Courts as a plea for any act which would be an offence if committed against a freeman.

It is clear, therefore, that we find the law in a state of utter uncertainty. It is equally clear that we cannot leave it in that state. We must either withdraw from a large class of slaves a protection to which the Courts under the jurisdiction of which they live now think them entitled, or we must extend to a large class a protection greater than what they actually enjoy.

We have not the smallest hesitation in recommending to his Lordship in Council that the law throughout all British India should be conformable to what, in the opinion of the Court of Nizamut Adawlut at Allahabad, is now actually the law in the Presidency of Fort William, and to what, in the opinion of the Court of Foujdarry Adawlut at Fort St. George, is now actually the practice in the Madras Presidency. That is to say, we recommend that no act falling under the definition of an offence should be exempted from punishment because it is committed by a master against his slave.

The distinction which, in the opinion of many respectable functionaries, the law now makes between acts committed against a freeman and acts committed against a slave is in itself an evil, and an evil so great, that nothing but the strongest necessity, proved by the strongest evidence, could justify any Government in maintaining it. We conceive that the circumstances which we have already stated are sufficient to show that no such necessity exists. By removing all doubt on the subject, we shall not deprive the master of a power the right to which has never been questioned, but of a power which is and has for some time been, to say the least, of disputable legality, and which has been held by a very precarious tenure.

To leave the question undecided is impossible. To decide the question by putting any class of slaves in a worse situation than that in which they now are is a course which we cannot think of recommending, and which we are certain that the Government will not adopt. The inference seems to be, that the question ought to be decided by declaring that whatever is an offence when committed against a freeman shall be also an offence when committed against a slave

It may perhaps be thought that, by framing the law in this manner, we do, in fact, virtually abolish slavery in British India; and undoubtedly, if the law as we have framed it should be really carried into full effect, it will at once deprive slavery of those evils which are its essence, and will insure the speedy and natural extinction of the whole system. The essence of slavery, the circumstance which makes slavery the worst of all social evils, is not in our opinion this, that the master has a legal right to certain services from the slave, but this, that the master has a legal right to enforce the performance of those services without having recourse to the tribunals. He is a judge in his own cause. He is armed with the powers of a magistrate for the protection of his own private interest against the person who owes him service. Every other judge quits the bench as soon as his own cause is called on. The judicial authority of the master begins and ends with cases in which he has a direct stake. The moment that a master is really deprived of this authority, the moment that his right to service really becomes, like his right to money which he has lent, a mere civil right, which he can enforce only by a civil action, the peculiarly odious and malignant evils of slavery disappear at once. The name of slavery may be retained, but the thing is no longer the same. It is evidently impossible that any master can really obtain efficient service from unwilling labourers by means of prosecution before the civil tribunals. Nor is there any instance of any country in which the relation of master and servant is maintained by means of such actions. In some states of society the labourer works because the master inflicts instant correction whenever there is any disobedience or slackness. In a different state of society, the people labour for a master because the master makes it worth their while. Practically, we believe it will be found that there is no third way. A labourer who has neither the motive of the freeman nor that of the slave, who is actuated neither by the hope of wages nor by the dread of stripes, will not work at all. The master may indeed, if he chooses, go before the tribunals and obtain a decree. But scarcely any master would think it worth while to do so, and scarcely any labourer would be spurred to con-

stant and vigorous exertion by the dread of such a legal proceeding. In fact, we are not even able to form to ourselves the idea of a society in which the working classes should have no other motives to industry than the dread of prosecution. We understand how the planter of Mauritius formerly induced his negroes to work. He applied the lash if they loitered. We understand how our grooms and bearers are induced to work at Calcutta. They are gainers by working, and by obtaining a good character; they are losers by being turned away. But in what other way servants can be induced to work we do not understand.

It appears to us, therefore, that if we can really prevent the master from exacting service by the use of any violence or restraint, or by the infliction of any bodily hurt, one of two effects will inevitably follow: either the master will obtain no service at all, or he will find himself under the necessity of obtaining it by making it a source of advantage to the labourer as well as to himself. A labourer who knows that if he idles, his master will not dare to strike him; that if he absconds, his master will not dare to confine him; that his master can enforce a claim to service only by taking more trouble, losing, more time, and spending more money than the service is worth, will not work for fear. It follows that if the master wishes the labourer to work at all, the master must have recourse to different motives, to the motives of a freeman, to the hope of reward, to the sense of reciprocal benefit. Names are of no consequence. It matters nothing whether the labourer be or be not called a slave. All that is of real moment is that he should work from the motives and feelings of the freeman.

This effect, we are satisfied, would follow if outrages offered to slaves were really punished exactly as outrages offered to freemen are punished. But we are far indeed from thinking that, by merely framing the law as we have framed it, we shall produce this effect. It is quite certain that slaves are at present often oppressed by their masters in districts where the magistrates and judges conceive that the law now is what we propose that it shall henceforth be. It is therefore evident that they may continue to be oppressed

by their masters when the law has been made perfectly clear To an ignorant labourer, accustomed from his birth to obey a superior for daily food, to submit without resistance to the cruelty and tyranny of that superior, perhaps to be transferred, like a horse or a sheep, from one superior to another, neither the law which we now propose, nor any other law, will of itself give freedom. It is of little use to direct the judge to punish unless we can teach the sufferer to complain.

We have thought it right to state this, lest we should mislead his Lordship in Council into an opinion that the law, framed as we propose to frame it, will really remove all the evils of slavery, and that nothing more will remain to be done. So far are we from thinking that the law, as we propose to frame it, will of itself effect a great practical change, that we greatly doubt whether even a law abolishing slavery would of itself effect any great practical change. Our belief is that even if slavery were expressly abolished, it might, and would, in some parts of India, still continue to exist in practice. We trust, therefore, that his Lordship in Council will not consider the measure which we now recommend as of itself sufficient to accomplish the benevolent ends of the British Legislature, and to relieve the Indian Government from its obligation to watch over the interests of the slave population.

NOTE (C).

ON THE CHAPTER OF OFFENCES AGAINST THE STATE.

His Lordship in Council will perceive that, in this chapter, we have provided only for offences against the Government of India, and that we have made no mention of offences against the General Government of the British Empire. We have done so because it appears to us doubtful to what extent his Lordship in Council is competent to legislate respecting such offences. The Act of Parliament

which defines the legislative power of the Council of India especially prohibits that body from making any law "which shall in any way affect any prerogative of the Crown or the authority of Parliament, or any part of the unwritten laws, or constitution of the United Kingdom of Great Britain and Ireland, whereon may depend, in any degree, the allegiance of any person to the Crown of the United Kingdom, or the sovereignty or dominion of the said Crown over any part of the said territories."

It might be argued that these words relate only to laws affecting the rights of the Crown and of Parliament, and not to laws affecting the penal sanctions of those rights, and that, therefore, though the Governor-general in Council has no power to absolve the King's subjects from their allegiance, he has power to fix the punishment to which they shall be liable for violating their allegiance. It seems to us, however, that there is the closest connexion in this case between the right and the penal sanction; that a power to alter the sanction amounts to a power to abolish the right; and that Parliament, which withheld from the Indian Legislature one of those powers, cannot be supposed to have intended to grant the other.

If the Governor-general in Council has the legal power to fix the punishment of a subject who should, in the territories of the East India Company, conspire the death of the King, or levy war against the King, then the Governor-general in Council has the legal power to fix that punishment at a fine of one anna; and it is plain that a law which should fix such a fine as the only punishment of regicide and rebellion would be a law virtually absolving all subjects within the territories of the East India Company from their allegiance.

This part of the penal law, therefore, we have not ventured to touch. We leave it to the Imperial Legislature. But we trust that we may be permitted to suggest to his Lordship in Council that the early attention of the Home authorities should be called to this subject.

There is no doubt that the criminal statute law of England is not binding generally on a native of India in the

Mofussil. Whether the statute law relating to treason be binding on such a native is a question with respect to which we do not venture to give a decided opinion. It seems to us exceedingly doubtful whether that part of the statute law be binding on such a native. It is quite certain that no Court has ever enforced it against such a native; and that, in the opinion of many respectable and intelligent judicial officers in the service of the Company, it could not legally be enforced against such a native. Nor are the Company's judicial officers, by whom alone such a native can legally be tried, likely to be accurately acquainted with the statute law of England on the subject of treason, or with the mass of constructions and precedents by which that law has been overlaid. If such a native be not punishable under the English statute law of treason, it is difficult to say under what law he could be punished for that crime. The Regulations contain nothing on the subject. The Council of India, we conceive, is not competent to legislate respecting it. The Mahomedan law might possibly be so violently strained as to reach it in Bengal and in the Madras Presidency; and in the Bombay Presidency it might possibly be brought within that clause which arms the Courts with an enormous discretion in cases in which they conceive that morality and social order require protection. But there are, in our opinion, strong reasons against retaining either the Mahomedan penal law, or the sweeping clause of the Bombay Regulations, to which we have referred.

It may be added that the provision of the Bombay Regulations, to which we have referred, applies only to persons who profess a religion with which a system of penal law is inseparably connected. Unless, therefore, the English statute law on the subject of treason applies to natives in the Mofussil, a point respecting which we entertain great doubt, a native Christian who should, at Surat, assist the levying of war, not against the Company's Government, but against the British Crown, would be liable to no punishment whatever.

This anomalous state of things may be, in some degree,

explained by the singular manner in which the British Empire grew up in India. The East India Company was, during a long course of years, in theory at least, under two masters. It was subject to the King of England; it was subject also to the great Mogul. It derived its corporate existence from the British Parliament. It held its territorial possessions by a grant from the Durbar of Delhi. The situation of the native subjects of the Company bore some analogy to that of the inhabitants of Mindelheim, while that fief of the empire was held by the Duke of Marlborough. The inhabitants of Mindelheim were subjects of the Duke of Marlborough, but they owed no allegiance to the English Crown, though their sovereign was subject to that Crown. It was in this way that the British Empire in India originated. It was long considered as a wise policy to disguise the real power of the English under the forms of vassalage, and to leave to the Mogul and his Viceroys the empty honours of a sovereignty which was really held by the Company. This policy was abandoned slowly and by imperceptible degrees. The recognition of the supremacy of the King of Delhi appeared on the seal of the British Government down to a late period, and on its coin down to a still later period. A great change has indeed taken place since the grant of the Dewannee of the lower provinces to the Company, but it has taken place so gradually, that, though it would be absurd to deny that the natives of British India are now subjects of his Majesty, it would be impossible to point out the particular time when they became so.

To these circumstances we attribute most of the anomalies which are to be found in the legal relation subsisting between the natives of British India and the General Government of the empire. It seems highly desirable that the Imperial Legislature should do what cannot be done by the Local Legislature, and should pass a law of high treason for the territories of the East India Company. As far, indeed, as respects the royal person, the present state of the law, though in theory unseemly, is not likely to cause any practical evil. It is highly improbable that any English

King will visit his Indian dominions, or that any plot, having for its object the death of an English King, will ever extend its ramifications to India. But it is by no means improbable that persons residing in the territories of the East India Company may be parties to the levying of war against the British Crown, without violating any local regulation. If any insurrection were to take place in any of the British dominions in the Eastern Seas, in Ceylon, for example, or in Mauritius, it is by no means improbable that persons residing within the Company's territories might furnish information and stores to the rebels. And if this were done by a person not subject to the jurisdiction of the Courts established by Royal Charter, we are satisfied that there would be the most serious difficulty in bringing the criminal to legal punishment.

We have, his Lordship in Council will perceive, made the abetting of hostilities against the Government, in certain cases, a separate offence, instead of leaving it to the operation of the general law laid down in the chapter on abetment. We have done so for two reasons. In the first place, war may be waged against the Government by persons in whom it is no offence to wage such war, by foreign princes and their subjects. Our general rules on the subject of abetment would apply to the case of a person residing in the British territories, who should abet a subject of the British Government in waging war against that Government; but they would not reach the case of a person who, while residing in the British territories, should abet the waging of war by any foreign prince against the British Government. In the second place, we agree with the great body of legislators in thinking, that though in general a person who has been a party to a criminal design which has not been carried into effect, ought not to be punished so severely as if that design had been carried into effect, yet an exception to this rule must be made with respect to high offences against the state; for state-crimes, and especially the most heinous and formidable state-crimes, have this peculiarity, that if they are successfully committed, the criminal is almost always secure from punishment. The mur

derer is in greater danger after his victim is despatched than before. The thief is in greater danger after the purse is taken than before. But the rebel is out of danger as soon as he has subverted the Government. As the penal law is impotent against a successful rebel, it is consequently necessary that it should be made strong and sharp against the first beginnings of rebellion, against treasonable designs which have been carried no further than plots and preparations. We have therefore not thought it expedient to leave such plots and preparations to the ordinary law of abetment. That law is framed on principles which, though they appear to us to be quite sound, as respects the great majority of offences, would be inapplicable here. Under that general law, a conspiracy for the subversion of the Government would not be punished at all if the conspirators were detected before they had done more than discuss plans, adopt resolutions, and interchange promises of fidelity. A conspiracy for the subversion of the Government, which should be carried as far as the gunpowder treason or the assassination plot against William the Third, would be punished very much less severely than the counterfeiting of a rupee, or the presenting of a forged check. We have, therefore, thought it absolutely necessary to make separate provision for the previous abetting of great state offences. The subsequent abetting of such offences may, we think, without inconvenience, be left to be dealt with according to the general law.

NOTE (D).

ON THE CHAPTER OF OFFENCES RELATING TO THE ARMY AND NAVY.

A FEW words will explain the necessity of having some provisions of the nature of those which are contained in this chapter.

It is obvious that a person who, not being himself sub-

ject to military law, exhorts or assists those who are subject to military law to commit gross breaches of discipline, is a proper subject of punishment. But the general law respecting the abetting of offences will not reach such a person; nor, framed as it is, would it be desirable that it should reach him. It would not reach him, because the military delinquency which he has abetted is not punishable by this code, and therefore is not, in our legal nomenclature, an offence. Nor is it desirable that the punishment of a person not military, who has abetted a breach of military discipline, should be fixed according to the principles on which we have proceeded in framing the law of abetment. We have provided that the punishment of the abettor of an offence shall be equal or proportional to the punishment of the person who commits that offence; and this seems to us a sound principle when applied only to the punishments provided by this code. But the military penal law is, and must necessarily be, far more severe than that under which the body of the people live. The severity of the military penal law can be justified only by reasons drawn from the peculiar habits and duties of soldiers, and from the peculiar relation in which they stand to the Government. The extension of such severity to persons not members of the military profession appears to us altogether unwarrantable. If a person, not military, who abets a breach of military discipline, should be made liable to a punishment regulated, according to our general rules, by the punishment to which such a breach of discipline renders a soldier liable, the whole symmetry of the penal law would be destroyed. He who should induce a soldier to disobey any order of a commanding officer would be liable to be punished more severely than a dacoit, a professional thug, an incendiary, a ravisher, or a kidnapper. We have attempted in this chapter to provide, in a manner more consistent with the general character of the code, for the punishment of persons who, not being military, abet military crimes.

NOTE (E).

ON THE CHAPTER OF THE ABUSE OF THE POWERS OF PUBLIC SERVANTS.

This chapter is intended to reach offences which are committed by public servants, and which are of such a description that they can be committed by public servants alone.

We have found considerable difficulty in drawing the line between public servants and the great mass of the community. We hope that the description which we have given in clause 14 will be found to comprehend all those whom it is desirable to bring under this part of the law, and we trust that, when the code of procedure is completed, this description may be made both more accurate and more concise.

Those offences which are common between public servants and other members of the community, we leave to the general provisions of the code. If a public servant embezzles public money, we leave him to the ordinary law of criminal breach of trust. If he falsely pretends to have disbursed money for the public, and by this deception induces the Government to allow it in his accounts, we leave him to the ordinary law of cheating. If he produces forged vouchers to back his statement, we leave him to the ordinary law of forgery. We see no reason for punishing these offences more severely when the Government suffers by them than when private people suffer. A Government, indeed, which does not consider the sufferings of private individuals as its own, is not only selfish but shortsighted in its selfishness. The revenue is drawn from the wealth of individuals, and every act of dishonest spoliation which tends to render individuals insecure in the enjoyment of their wealth is really an injury to the revenue. On every account, therefore, we think it desirable that the property of the state should, in general, be protected by exactly the

same laws which are considered as sufficient for the protection of the property of the subject.

We are not without apprehension that we may be thought to have treated the transgressions of public servants too favourably, to have passed by without notice some malpractices which deserve punishment, and where we have provided punishments, to have seldom made those punishments sufficiently severe.

It is true that we have altogether omitted to provide any punishment for some kinds of misconduct on the part of public servants. It is true, also, that the punishments which we propose in this chapter are not generally proportioned either to the evil which the abuse of power produces, or to the depravity of a man who, having been entrusted with power for the public benefit, employs that power to gratify his own cupidity or revenge.

But it is to be remembered that there is a marked distinction between the penal clauses contained in this chapter and the other penal clauses of the code. In general a penal clause sets forth the whole punishment which can be inflicted on an offender by any public authority. The penalty of theft, of breach of trust, of cheating, of extortion, of assault, of defamation, has been fixed on the supposition that it is the whole penalty which the criminal is to suffer, and that no power in the state can make any addition to it. But the penalty of an offence committed by a public functionary in the exercise of his public functions has been fixed on the supposition that it will often be only a part, and a small part, of the penalty which he will suffer. It is in the power of the Government to punish him for many acts which the law has not made punishable. It is in the power of the Government to add to any sentence pronounced by the Courts another sentence which will often be even more terrible. To a man whose subsistence is derived from official emoluments, whose habits are formed to official business, and whose whole ambition is fixed on official promotion, degradation to a lower post is a punishment; dismissal from the public service is a punishment sufficient even for a serious offence. The mere knowledge that his character

has suffered in the opinion of those superiors on whom his advancement depends probably gives him as much pain as a heavy fine.

This is to a great degree the case in every country, and assuredly not less in India than in any other country. Indeed, those servants of the Company by whom all the higher offices in the Indian Government are filled entertain a feeling about their situations very different from that which is found among political men in England. It is natural that they should entertain such a feeling. They are set apart at an early age as persons destined to hold offices in India. Their education is conducted at home with that view. They are transferred when just entering on manhood to the country which they are to govern. They pass the best years of their lives in acquiring knowledge which is most important to men who are to fill high situations in India, but which in any other walk of life would bring little profit and little distinction; in mastering languages which, when they quit this country, are useless to them; in studying a vast and complicated system of revenue which is altogether peculiar to the East; in becoming intimately acquainted with the interests, the resources and the projects of potentates whose very existence is unknown even to educated men in Europe. To such a man, dismissal from the service of the Indian Government is generally a very great calamity. His life has been thrown away. It has been passed in acquiring information and experience which, in any pursuit to which he may now betake himself, will be of little or no service to him. There are therefore few covenanted servants of the Company who, even if they were men destitute of all honourable feeling, would not look on dismissal from the service as a most severe punishment. But the covenanted servants of the Company are English gentlemen, that is to say, they are persons to whom the ruin of their fortunes is less terrible than the ruin of their characters. There are few of them, we believe, to whom an intimation that their integrity was suspected by the Government would not give more pain than a sentence of six months' imprisonment for an offence not of a disgraceful

kind, and to many of them death itself would appear less dreadful than ignominious expulsion from the body of which they are members.

Thus dismissal from the public service is a punishment exceedingly dreaded by public functionaries, and most dreaded in this country by the highest class of public functionaries. Nor is this all. It is not merely a severe punishment, but it is also a punishment which is far more likely to be inflicted than many punishments which are less severe. Those who are legally competent to inflict it are bound by no rules, except those which their own discretion may impose on them. For what kind and degree of delinquency they shall inflict it, by what evidence that delinquency shall be established, by what tribunals the inquiry shall be conducted; nay, whether there shall be any delinquency, any evidence, any tribunal, is absolutely in their breasts. They may inflict this punishment, and may be justified in inflicting it for transgressions which are not susceptible of precise definition, and which have not been substantiated by decisive proof. They may be justified in inflicting it, because many petty circumstances, each of which separately would be too trivial for notice, have, when taken together, satisfied them that a functionary is unfit for any public employment. They may be justified in inflicting it, because they strongly suspect him of guilt which they cannot bring home to him by evidence to which a Zillah judge would pay any attention. Most of what we have said of the punishment of dismissal from office applies, though not in the same degree, to the slighter punishments of censure, suspension, and removal from a higher to a lower post.

We have shown that public functionaries are liable not only to the punishments provided by this code, but also to other peculiar punishments of great severity. It seems therefore to follow, that if those who possess the power of inflicting these peculiar punishments can be trusted, some malpractices of public functionaries may be safely left unnoticed in this code, and that other malpractices need not be visited with legal punishment so rigorous as their enormity might seem to merit. The Executive Government, in our

opinion, deserves to be trusted. At all events it must be trusted; for it is quite certain that no laws will prevent corruption and oppression on the part of the servants of the Indian Government, if that Government is inclined to screen the offenders. The Government, to say nothing of the vast influence which it can indirectly exert, appoints, promotes, and removes judges at its discretion. It can remit any sentence pronounced by the Courts. It can, therefore, if it be not honestly disposed to correct official abuses, render any penal clauses directed against such abuses almost wholly inoperative. And if it be honestly disposed, as we firmly believe that it is, to correct official abuses, it will use for that purpose its power of rewarding and punishing its servants.

It will be seen that we propose, under clause 138, to punish with imprisonment for a term not exceeding three years, or with fine, or both, the corruption of public functionaries. The punishment of fine will, we think, be found very efficacious in cases of this description, if the judges exercise the power given them as they ought to do, and compel the delinquent to deliver up the whole of his ill-gotten wealth.

The mere taking of presents by a public functionary, when it cannot be proved that such presents were corruptly taken, we have made penal only in one particular case, to which we shall hereafter call the attention of his Lordship in Council. We have not made the taking of presents by public functionaries generally penal; because, though we think that it is a practice which ought to be carefully watched and often severely punished, we are not satisfied that it is possible to frame any law on the subject which would not be rendered inoperative either by its extreme severity or by its extreme laxity. Absolutely to prohibit all public functionaries from taking presents would be to prohibit a son from contributing to the support of a father, a father from giving a portion with a daughter, a brother from extricating a brother from pecuniary difficulties. No government would wish to prevent persons intimately connected by blood, by marriage, or by friendship, from render-

ing services to each other; and no tribunals would enforce a law which should make the rendering of such services a crime. Where no such close connexion exists, the receiving of large presents by a public functionary is generally a very suspicious proceeding. But a lime, a wreath of flowers, a slice of betel nut, a drop of atar of roses poured on his handkerchief, are presents which it would in this country be held churlish to refuse, and which cannot possibly corrupt the most mercenary of mankind. Other presents of more value than these may, on account of their peculiar nature, be accepted, without affording any ground for suspicion. Luxuries socially consumed according to the usages of hospitality are presents of this description. It would be unreasonable to treat a man in office as a criminal for drinking many rupees-worth of champagne in a year at the table of an acquaintance; though if he were to suffer one of his subordinates to accept even a single rupee in specie, he might deserve exemplary punishment.

It appears to us, therefore, that the taking of presents where a corrupt motive cannot be proved, ought not in general to be a crime cognizable by the Courts. Whether in any particular case it ought to be punished or not will depend on innumerable circumstances, which it is impossible accurately to define: on the amount of the present, on the nature of the present, on the relation in which the giver and receiver stand to each other. Suppose that a wealthy English agent, who is interested in a young civil servant of the Company, were to pay the debts of that civil servant; or, suppose that a resident were to furnish money to enable his invalid assistant to proceed to the Cape. In these transactions there might be nothing which the most scrupulous could disapprove; but the case would be widely different if a wealthy native Zemindar were to pay the debts of a Collector of his district, or if any of the officers at the residency were to receive money from the minister of a foreign power. In such a case, though it might be impossible to prove a corrupt motive, we think that the Government would be inexcusable if it suffered the delinquent to remain in the public service.

We have hitherto put only extreme cases, cases in which it is clear that the taking of presents ought not to be punished, or cases in which it is clear that the taking of presents ought to be severely punished. But between the extremes lie an immense variety of cases, some of which call for severe punishment, some for milder punishment, some for censure, some for gentle admonition, while some ought to be tolerated. We have said that if a Collector were to accept a large present of money from a wealthy native Zemindar, he would deserve to be turned out of the service. But if the Collector were to accept such a present from an English Indigo planter, the case would be different. The Indigo planter might be his uncle, his brother, his father-in-law, his brother-in-law. In that case there might be no impropriety in the transaction. Again, if a native in the public service were to accept a present from a Zemindar who was connected with him by blood, marriage, or friendship, there might be no impropriety in the transaction.

By the Act of Parliament to which the malpractices of the first British conquerors of India gave occasion, the servants of the Company were forbidden to receive presents from Asiatics, but were left at liberty to receive presents from Europeans. The legislators of that time appear to have proceeded on the supposition that the servants of the Company would all be Englishmen, and that no Englishman would ever have any such connexion with any native as would render the receiving of presents from that native unobjectionable.

Natives are now declared by law to be competent to hold any post in the Company's service. It would evidently be improper to interdict an Asiatic in the service of the Company from receiving pecuniary assistance from his Asiatic father, or from receiving a portion with an Asiatic bride. It seems to us therefore, that the rule laid down by Parliament, though it will still be in many cases an excellent rule of evidence, ought not, under the altered circumstances of India, to continue to be a rule of law.

Again, it ought to be remembered that the European and native races are not at present divided from each other by

so strong a line of separation as at the time when the British Parliament laid down the rule which we are considering. The interval is still wide, but it by no means appears to us as it appeared to the legislators of the last generation, to be impassable. It is evident, therefore, that the rule formerly laid down by Parliament is constantly becoming less and less applicable to the state of India. On these grounds we have thought it advisable to leave this matter to the Executive Government, which will doubtless promulgate from time to time such rules as it may deem proper, and will enforce submission to those rules by visiting its disobedient servants with censure, with degradation, or with dismissal from the public service, according to the circumstances of every case.

We have thought it desirable to make one exception. We propose that a judge who accepts any valuable thing by way of gift from one whom he knows to be a plaintiff or a defendant in any cause pending in his Court shall be severely punished. This rule is not to extend to the taking of food in the interchange of ordinary civilities. It appears to us that the objections which we have made to a general law prohibiting the receipt of presents by public functionaries do not apply to this clause. The rule is clear and definite. The practice against which it is directed is not a practice which ought sometimes to be encouraged, and sometimes to be tolerated. It ought always, and under all circumstances, to be discouraged. It therefore appears to unite all the characteristics which mark out a practice as a fit object of penal legislation.

The only other penal prvoision of this chapter to which we think it necessary to call the attention of his Lordship in Council is that which is contained in clause 149.

We are of opinion that the preceding clauses, and the power which the Government possesses of suspending, degrading, and dismissing public functionaries, will be found sufficient to prevent gross abuses. But there will remain a crowd of petty offences with which it is very difficult to deal, offences which separately are too slight to be brought before the criminal tribunals, which will sometimes be com-

mitted by good public servants, and which therefore it would be inexpedient to punish by removal from office, yet which will be very often committed if they can be committed with impunity, and which, if often committed, would impair the efficiency of all departments of the administration, and would produce infinite vexation to the body of the people.

By the existing laws of all the presidencies, a summary judicial power is given in certain cases to certain official superiors for the purpose of restraining their subordinates. We are inclined to believe that this is a wholesome power, and that it has, in the great majority of cases, been honestly employed for the protection of the public. We propose therefore to adopt the principle, and to make the system uniform through all the provinces of the empire, and through all the departments of the public service. We propose that a public functionary who is guilty of neglect of duty, who treats his superiors with disrespect, or who disobeys the lawful orders given by them for his guidance, shall be liable to a fine not exceeding the official pay which he receives in three months. In default of payment he will be liable (see clause 54) to seven days' imprisonment.

In the code of procedure we think that it will be proper to provide that the power of awarding this penalty shall be given, not to the ordinary tribunals, but to the official superiors of the offender. Thus, if a subordinate officer employed in the collection of revenue should incur this penalty, it will be imposed by the Collector, and the appeal will probably be to the Board of Revenue. If an officer employed to execute the process of a Zillah Court should neglect his duty, the fine will be imposed by the Zillah judge, and the appeal will probably be to the Sudder Court. If the offence should be committed by a Tide-waiter. the Collector of Customs for the port will probably impose the penalty, and the appeal will be to the Board of Customs. These instances we give merely as illustrations of what, at present, appears to us desirable. The details of this part of the law of procedure cannot be arranged without much consideration and inquiry.

One important question still remains to be considered

We are of opinion that we have provided sufficient punishment for the public servant who receives a bribe. But it may be doubted whether we have provided sufficient punishment for the person who offers it. The person who, without any demand express or implied on the part of a public servant, volunteers an offer of a bribe, and induces that public servant to accept it, will be punishable under the general rule contained in clause 88 as an instigator. But the person who complies with a demand, however signified, on the part of a public servant, cannot be considered as guilty of instigating that public servant to receive a bribe. We do not propose that such a person shall be liable to any punishment, and, as this omission may possibly appear censurable to many persons, we are desirous to explain our reasons.

In all states of society the receiving of a bribe is a bad action, and may properly be made punishable. But whether the giving of a bribe ought or ought not to be punished, is a question which does not admit of a short and general answer. There are countries in which the giver of a bribe ought to be more severely punished than the receiver. There are countries, on the other hand, in which the giving of a bribe may be what it is not desirable to visit with any punishment. In a country situated like England, the giver of a bribe is generally far more deserving of punishment than the receiver. The giver is generally the tempter, the receiver is the tempted. The giver is generally rich, powerful, well educated; the receiver, needy and ignorant. The giver is under no apprehension of suffering any injury if he refuses to give. It is not by fear, but by ambition, that he is generally induced to part with his money. Such a person is a proper subject of punishment. But there are countries where the case is widely different; where men give bribes to magistrates from exactly the same feeling which leads them to give their purses to robbers or to pay ransom to pirates; where men give bribes because no man can, without a bribe, obtain common justice. In such countries we think that the giving of bribes is not a proper subject of punishment. It would be as absurd, in such a state of society, to reproach the giver of a bribe with corrupting

the virtue of public servants, as it would be to say that the traveller who delivers his money when a pistol is held to his breast corrupts the virtue of the highwayman.

We would by no means be understood to say that India, under the British Government, is in a state answering to this last description. Still we fear it is undeniable that corruption does prevail to a great extent among the lower class of public functionaries; that the power which those functionaries possess renders them formidable to the body of the people; that in the great majority of cases the receiver of the bribe is really the tempter, and that the giver of the bribe is really acting in self-defence.

Under these circumstances, we are strongly of opinion that it would be unjust and cruel to punish the giving of a bribe in any case in which it could not be proved that the giver had really by his instigations corrupted the virtue of a public servant, who, unless temptation had been put in his way, would have acted uprightly.

NOTE (F).

ON THE CHAPTER OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

We were at first disposed to have one chapter for contempts of the lawful authority of Courts of Justice, another for contempts of the lawful authority of Officers of Revenue, and a third for contempts of the lawful authority of Officers of Police. But we soon found that these three chapters would be almost the same, word for word. It appeared to us also that, in the existing state of the civil administration of India, the separation which we were at first inclined to make would produce nothing but perplexity. The functions of Magistrate and Collector are very frequently united in the same person; and that person is perpetually called upon, both as Magistrate and Collector, to perform acts which are judicial in their nature, to try offenders, and to

decide litigated questions of civil right. While the division of labour between the different departments of the public service is so imperfect, it would be idle to make nice distinctions between those departments in the penal code.

In order to frame this chapter, we went carefully through the existing Regulations of the three Presidencies, and extracted the numerous penal provisions which are intended to enforce obedience to the lawful authority of different classes of public servants. Having collected these provisions, and discarded a very few which we thought obviously unreasonable or superfluous, we proceeded to analyse the rest.

It is possible that our analysis may be imperfect; and it is highly probable that the punishments which we propose may require some modification. It will be seen that we propose the same punishment for all the offences which fall, in our analysis, under the same head. For example: one head is the omitting to obey the lawful summons of a public servant. For this offence we have only one punishment; and this punishment will be applicable alike to the witness who omits to obey the lawful summons of the Court of Sudder Dewannee Adawlut, to the witness who omits to obey the lawful summons of a Moonsiff, to the putwarree who in Bengal omits to obey the lawful summons of the Collector, to the ryot who in the Madras Presidency omits to obey the lawful summons of the Collector, to the trader who in the same presidency omits to attend a meeting lawfully convened for the distribution of the Vizabuddy. In the same manner we propose one punishment for the captain of a ship in the Hoogly who illegally refuses to admit a custom-house officer on board, for a landholder who refuses to admit a surveyor lawfully commissioned by the Collector to measure land, for a distiller who refuses to admit the proper officer to examine his distillery. Again, we propose the same punishment for the person who resists the taking of goods in execution under a decree of a Court of Justice, for the person who resists the taking of property by way of distress for arrears of revenue, for the person who resists the seizure of salt by lawful authority, for the person who

resists the seizure of a boat in default of toll by lawful authority, for the person who resists the seizure of smuggled goods by lawful authority.

We are sensible that there may be reasons which have escaped us for making distinctions in punishment between offences which in our classification fall under the same head. But it is impossible to find in any single person, or in any small body of persons, so extensive and minute a knowledge of every province of India, and of every department of the public service, as would be a security against errors of this description. We have no doubt that if his Lordship in Council directs the code to be published for general information, valuable suggestions will be received from servants of the Company in different parts of India, and that those suggestions will enable the Government to modify the provisions which we propose, by introducing proper aggravations and mitigations.

The only provision which appears to us to require any further explanation is that which is contained in clause 182.

We have, to the best of our ability, framed laws against acts which ought to be repressed at all times and places, or at times and places which it is in our power to define. But there are acts which at one time and place are perfectly innocent, and which at another time or place are proper subjects of punishment: nor is it always possible for the legislator to say at what time or at what place such acts ought to be punishable.

Thus it may happen that a religious procession which is in itself perfectly legal, and which, while it passes through many quarters of a town, is perfectly harmless, cannot without great risk of tumult and outrage be suffered to turn down a particular street inhabited by persons who hold the ceremony in abhorrence, and whose passions are excited by being forced to witness it. Again, there are many Hindoo rites which in Hindoo temples and religious assemblies the law tolerates, but which could not with propriety be exhibited in a place which English gentlemen and ladies were in the habit of frequenting for purposes of exercise. Again, at a particular season hydrophobia may be common among

the dogs at a particular place, and it may be highly advisable that all people at that place should keep their dogs strictly confined. Again, there may be a particular place in a town which the people are in the habit of using as a receptacle for filth. In general this practice may do no harm, but an unhealthy season may arrive when it may be dangerous to the health of the population, and under such circumstances it is evidently desirable that no person should be allowed to add to the nuisance. It is evident that it is utterly impossible for the legislature to mark out the route of all the religious processions in India, to specify all the public walks frequented by English ladies and gentlemen, to foresee in what months and in what places hydrophobia will be common among dogs, or when a particular dunghill may become dangerous to the health of a town. It is equally evident that it would be unjust to punish a person who cannot be proved to have acted with bad intentions for doing to-day what yesterday was a perfectly innocent act, or for doing in one street what it would be perfectly innocent to do in another street, without giving him some notice.

What we propose, therefore, is to empower the local authorities to forbid acts which these authorities consider as dangerous to the public tranquillity, health, safety or convenience, and to make it an offence in a person to do anything which that person knows to be so forbidden, and which may endanger the public tranquillity, health, safety or convenience. It will be observed that we do not give to the local authorities the power of arbitrarily making anything an offence; for unless the Court before which the person who disobeys the order is tried shall be of opinion that he has done something tending to endanger the public tranquillity, health, safety or convenience, he will be liable to no punishment. The effect of the order of the local authority will be merely to deprive the person who knowingly disobeys the order of the plea that he had no bad intentions. He will not be permitted to allege that if he has caused harm, or risk of harm, it was without his knowledge.

Thus, if in a town where no order for the chaining up of dogs has been made, A. suffers his dog to run about loose,

A. will be liable to no punishment for any mischief which the animal may do, unless it can be shown that A. knew the animal to be dangerous. But if an order for confining dogs has been issued, and if A. knew of that order, it will be no defence for him to allege, and even to prove, that he believed his dog to be perfectly harmless. If the Court think that A.'s disobedience has caused harm, or risk of harm, A will be liable to punishment. On the other hand, if the Court think that there was no danger, and that the local order was a foolish one, A. will not be liable to punishment.

We see some objections to the way in which we have framed this part of the law; but we are unable to frame it better. On the one hand, it is, as we have shown, absolutely necessary to have some local rules which shall not require the sanction of the legislature. On the other hand, we are sensible that there is the greatest reason to apprehend much petty tyranny and vexation from such rules; and this although the framers of those rules may be very excellent and able men. There is scarcely any disposition in a ruler more prejudicial to the happiness of the people than a meddling disposition. Yet, experience shows us that it is a disposition which is often found in company with the best intentions, with great activity and energy, and with a sincere regard for the interest of the community. A public servant of more than ordinary zeal and industry, unless he have very much more than ordinary judgment, is the very man who is likely to harass the people under his care with needless restrictions. We have, therefore, thought it necessary to provide that no person should be punished merely for disobeying a local order, unless it be made to appear that the disobedience has been attended with evil, or risk of evil. Thus no person will be punished for disobeying an idle and vexatious order.

The mode of promulgating these orders belongs to the code of procedure, which will of course contain such provisions as may be required for the purpose of enabling the Government to exercise a constant and efficient control over its local officers.

NOTE (G).

ON THE CHAPTER OF OFFENCES RELATING TO PUBLIC JUSTICE.

Many offences which interfere with the administration of justice are sufficiently provided for in other chapters, particularly in the chapter relating to contempts of the lawful authority of public servants. There still remain, however, some offences of that description for which the present chapter is intended to provide.

The rules which we propose touching the offence of attempting to impose on a Court of Justice by false evidence differ from those of the English law, and of the codes which we have had an opportunity of consulting.

It appears to us, in the first place, that the offence which we have designated as the fabricating of false evidence is not punished with adequate severity under any of the systems to which we refer. This may perhaps be because the offence, in its aggravated forms, is not one of very frequent occurrence in western countries. It is notorious, however, that in this country the practice is exceedingly common, and for obvious reasons. The mere assertion of a witness commands far less respect in India than in Europe, or in the United States of America. In countries in which the standard of morality is high, direct evidence is generally considered as the best evidence. In England assuredly it is so considered, and its value, as compared with the value of circumstantial evidence, is perhaps overrated by the great majority of the population. But in India we have reason to believe that the case is different. A judge, after he has heard a transaction related in the same manner by several persons who declare themselves to be eye-witnesses of it, and of whom he knows no harm, often feels a considerable doubt whether the whole, from beginning to end, be not a fiction, and is glad to meet with some circumstance, however slight, which supports the story, and which is not likely to have been devised for the purpose of supporting the story.

Hence, in England, a person who wishes to impose on a Court of Justice knows that he is likely to succeed best by perjury, or subornation of perjury. But in India, where a judge is generally on his guard against direct false evidence, a more artful mode of imposition is frequently employed. A lie is often conveyed to a Court, not by means of witnesses, but by means of circumstances, precisely because circumstances are less likely to lie than witnesses. These two modes of imposing on the tribunals appear to us to be equally wicked, and equally mischievous. It will indeed be harder to bring home to an offender the fabricating of false evidence than the giving of false evidence. But wherever the former offence is brought home, we would punish it as severely as the latter. If A. puts a purse in Z.'s bag, with the intention of causing Z. to be convicted as a thief, we would deal with A. as if he had sworn that he saw Z. take a purse. If A. conceals in Z.'s house a paper written in imitation of Z.'s hand, and purporting to be a plan of a treasonable conspiracy, we would deal with A. as if he had sworn that he was present at a meeting of conspirators at which Z. presided.

The exception in clause 190 is in strict conformity with this principle. We propose to treat the giving of false evidence and the fabricating of false evidence in exactly the same way. We have no punishment for false evidence given by a person when on his trial for an offence, though we conceive that such a person ought to be interrogated. The grounds on which this part of the law is founded will shortly be submitted to Government in our report on the law of evidence. As we do not propose to punish a prisoner for lying at the bar in order to escape punishment, so we do not propose to punish him for fabricating evidence with the view of escaping punishment, unless he also contemplated some injury to others as likely to be produced by the evidence so fabricated. If A. stabs Z, and afterwards on his trial denies that he stabbed Z., we do not propose to punish A. as a giver of false evidence. And on the same principle, if A., after having stabbed Z., in order to escape detection, disposes Z.'s body in such a manner as is likely

to lead a jury to think the death accidental, we do not propose to punish A. as the fabricator of false evidence.

It appears to us that the offence of attempting to impose on a Court of Justice by false evidence is an offence of which there are numerous grades, some of which may be easily defined. The authors of the French code have not overlooked these circumstances, though they have not, in our opinion, marked the gradations very successfully. The English law makes no distinction whatever between the man who has attempted to take away his neighbour's life by false swearing, and the man who has strained his conscience to give an undeserved good character to a boy accused of a petty theft. The former is punished far too leniently; the latter perhaps too severely.

The giving of false evidence must always be a grave offence. But few points in penal legislation seem to us clearer than that the law ought to make a distinction between that kind of false evidence which produces great evils, and that kind of false evidence which produces comparatively slight evils.

As the ordinary punishment of false evidence, we propose imprisonment for a term of not more than seven years, nor less than one year. If the false evidence is given or fabricated with intent to cause a person to be convicted of a grave offence not capital, we propose that the person who gives or fabricates such evidence may be punished with the punishment of the offence which he has attempted to fix on another. If the false evidence be given or fabricated with the intention of causing death, we propose to punish it in the same manner in which we propose to punish the worst attempts to murder. If such false evidence actually causes death, the person who has given or fabricated it falls under the definition of murder, and is liable to capital punishment. In this last point, the law, as we have framed it, agrees with the old law of England, which, though in our opinion just and reasonable, has become obsolete.

We think this the proper place to notice an offence which bears a close affinity to that of giving false evidence, and which we leave for the present unpunished, only on account

of the defective state of the existing law of procedure, — we mean the crime of deliberately and knowingly asserting falsehoods in pleading. Our opinions on this subject may startle persons accustomed to that boundless license which the English law allows to mendacity in suitors. On what principle that license is allowed we must confess ourselves unable to discover. A. lends Z. money; Z. repays it. A. brings an action against Z. for the money, and affirms in his declaration that he lent the money, and has never been repaid. On the trial A.'s receipt is produced. It is not doubted. A. himself cannot deny that he asserted a falsehood in his declaration. Ought A. to enjoy impunity? Again: Z. brings an action against A. for a debt which is really due. A.'s plea is a positive averment that he owes Z. nothing. The case comes to trial; and it is proved by overwhelming evidence that the debt is a just debt. A. does not even attempt a defence. Ought A. in this case to enjoy impunity? If, in either of the cases which we have stated, A. were to suborn witnesses to support the lie which he has put on the pleadings, every one of these witnesses, as well as A. himself, would be liable to severe punishment. But false evidence in the vast majority of cases springs out of false pleading, and would be almost entirely banished from the Courts if false pleading could be prevented.

It appears to us that all the marks which indicate that an act is a proper subject for legal punishment meet in the act of false pleading. That false pleading always does some harm is plain. Even when it is not followed up by false evidence it always delays justice. That false pleading produces any compensating good to atone for this harm has never, as far as we know, been even alleged. That false pleading will be more common if it is unpunished than if it is punished appears as certain as that rape, theft, embezzlement, would, if unpunished, be more common than they now are. It is evident also that there will be no more difficulty in trying a charge of false pleading than in trying a charge of false evidence. The fact that a statement has been made in pleading will generally be more clearly proved than the fact that a statement has been made in evidence. The falsehood of a

statement made in pleading will be proved in exactly the same manner in which the falsehood of a statement made in evidence is proved. Whether the accused person knew that he was pleading falsely, the Courts will determine on the same evidence on which they now determine whether a witness knew that he was giving false testimony.

We have as yet spoken only of the direct injury produced to honest litigants by false pleading. But this injury appears to us to be only a part, and perhaps not the greatest part, of the evil engendered by the practice. If there be any place where truth ought to be held in peculiar honour, from which falsehood ought to be driven with peculiar severity, in which exaggerations, which elsewhere would be applauded as the innocent sport of the fancy, or pardoned as the natural effect of excited passion, ought to be discouraged, that place is a Court of Justice. We object, therefore, to the use of legal fictions, even when the meaning of those fictions is generally understood, and we have done our best to exclude them from this code. But that a person should come before a Court, should tell that Court premeditated and circumstantial lies for the purpose of preventing or postponing the settlement of a just demand, and that by so doing he should incur no punishment whatever, seems to us to be a state of things to which nothing but habit could reconcile wise and honest men. Public opinion is vitiated by the vicious state of the law. Men who, in any other circumstances, would shrink from falsehood, have no scruple about setting up false pleas against just demands. There is one place, and only one, where deliberate untruths, told with the intent to injure, are not considered as discreditable, and that place is a Court of Justice. Thus the authority of the tribunals operates to lower the standard of morality, and to diminish the esteem in which veracity is held; and the very place which ought to be kept sacred from misrepresentations, such as would elsewhere be venial, becomes the only place where it is considered as idle scrupulosity to shrink from deliberate falsehood.

We consider a law for punishing false pleading as indispensably necessary to the expeditious and satisfactory admin-

istration of justice, and we trust that the passing of such a law will speedily follow the appearance of the code of procedure. We do not, as we have stated, at present propose such a law, because, while the system of pleading remains unaltered in the Courts of this country, and particularly in the Courts established by Royal Charter, it will be difficult, or to speak more properly, impossible to enforce such a law. We have, therefore, gone no further than to provide a punishment for the frivolous and vexatious instituting of civil suits, a practice which, even while the existing systems of procedure remain unaltered, may, without any inconvenience, be made an offence. The law on the subject of false evidence will, as it appears to us, render unnecessary any law for punishing the frivolous and vexatious preferring of criminal charges.

No other part of this chapter appears to require comment.

NOTE (H).

ON OFFENCES RELATING TO THE REVENUE.

In order to frame this chapter, we took a course similar to that which we took with the chapter relating to contempts of the lawful authority of public servants. We went carefully through the revenue laws of the three presidencies, extracted the penal clauses, analysed them, and reduced them to a small number of general heads.

His Lordship in Council will perceive that we have not thought it proper to insert in the code any provision for the confiscation of property on the ground of a breach of the revenue laws, and that we leave the existing rules on that subject untouched. We have done so, because it does not appear to us that such confiscation is in strictness a punishment. It has indeed much in common with punishment; but it appears to us that there is a marked distinction, and that confiscation of the sort which is authorised in many parts of the Regulations of the three presidencies would, con-

sidered in the light of a punishment, be anomalous and indefensible. It is a proceeding directed, not against the person who has broken the law, but against the thing with respect to which the law has been broken. It is not necessary that any misconduct should be proved, that any accusation should be brought, that any particular individual should be in the contemplation of the authority which directs the confiscation. Nay, the revenue laws authorise confiscation, not only in cases where misconduct is not proved, but in cases where it is proved that there has been no misconduct in any quarter; and, where there has been misconduct, those laws authorise the confiscation of the property of a person who is proved to have had no share in the misconduct.

To give a single example: if tobacco be found in the island of Bombay after the time at which it ought to be exported thence, it is confiscated, together with the receptacles which contain it, the substances in which it is packed, and the carriages and animals which are employed to convey it. This, which is a fair specimen of revenue laws respecting confiscation, is evidently objectionable, considered as a penal law. The carriages, the animals, the vessels, the tobacco itself, may all be the property of persons who are not in the least to blame. Indeed, we know that under this law the boxes of gentlemen have repeatedly been seized, because the servants who packed them had concealed tobacco in the baggage. Such a law, put into the form of a penal provision, would be too grotesque to be a subject of serious argument. It would, in the phraseology of our code, run thus: "If any person places contraband tobacco in the baggage of any other person, the person in whose baggage such contraband tobacco is placed shall be punished with the confiscation of such baggage." And the following illustration would make the law, if possible, still more ridiculous: "Contraband tobacco is hidden in A.'s baggage, by A.'s servant, without A.'s knowledge, and contrary to A.'s express command. A. has committed the offence defined in this clause."

It is evident, therefore, that this law, and many other laws of the same kind, must be defended on principles quite

different from those on which penal legislation ought to be conducted. They must be defended, not as being penal laws directed against the guilty, but rather as being sharp and stringent laws of civil procedure which are intended to enable the Government to obtain its due with speed and certainty, at the cost whether of the guilty or of the innocent. Viewing them in this light, and knowing as we know that they are greatly mitigated in practice by the lenity of the Executive Government, we consider them as justifiable; but we are decidedly of opinion that they would be out of place in a penal code.

NOTE (I).

ON THE CHAPTER OF OFFENCES RELATING TO COIN.

Most of the provisions in this chapter appear sufficiently intelligible without any explanation.

We have proposed that the Government of India should follow the general practice of Governments in punishing more severely the counterfeiting of its own coin than the counterfeiting of foreign coin. It appears to us peculiarly advisable, under the present circumstances of India, to make this distinction. It is much to be wished that the Company's currency may supersede the numerous coinages which are issued from a crowd of mints in the dominions of the petty princes of India. It has appeared to us that this object may be in some degree promoted by the law as we have framed it. That coinage, the purity of which is guarded by the most rigorous penalties, is likely to be the most pure; and that coinage which is likely to be the most pure will be the most readily taken in the course of business.

It is not very probable that any person in this country will employ himself in making counterfeit sovereigns or shillings; but should so improbable an event occur, we think that the King's coin should have the same protection which is given to the coin of the local Government. It may perhaps be thought that in proposing laws for the protection of

the King's coin, we have departed from the principle which we laid down in our note on the law of offences against the State, and that we should have acted more consistently in leaving the British currency to the care of the British Legislature. It appears to us, however, that the offence of coining, though, in an arbitrary classification, it may be called by the technical name of treason, is in substance an offence against property and trade, that it is an offence of very nearly the same kind with the forging of a bank note, and that it would be an offence of exactly the same kind if the bank note, like the notes of the Bank of England formerly, were in all cases legal tender, or if the coin, like the Company's gold mohur at present, were not legal tender. We do not therefore conceive that in proposing a law for punishing the counterfeiting of the King's coin, we are proposing a law which can reasonably be said to affect any of the royal prerogatives.

The distinction which we propose to make (see clauses 241 and 242) between two different classes of utterers is marked in the French code; and it is so obviously agreeable to reason and justice that we are surprised that, having been marked in that code, it should not have been adopted by Mr. Livingston. We are glad to perceive that the code of Bombay makes this distinction.

An utterer by profession, an utterer who is the agent employed by the coiner to bring counterfeit coin into circulation, is guilty of a very high offence. Such an utterer stands to the coiner in a relation not very different from that in which a habitual receiver of stolen goods stands to a thief. He makes coining a far less perilous and a far more lucrative pursuit than it would otherwise be. He passes his life in the systematic violation of the law, and in the systematic practice of fraud in one of its most pernicious forms. He is one of the most mischievous, and is likely to be one of the most depraved of criminals. But a casual utterer, an utterer who is not an agent for bringing counterfeit coin into circulation, but who, having heedlessly received a bad rupee in the course of his business, takes advantage of the heedlessness of the next person with whom he deals to pay that

bad rupee away, is an offender of a very different class. He is undoubtedly guilty of a dishonest act, but of one of the most venial of dishonest acts. It is an act which proceeds not from greediness for unlawful gain, but from a wish to avoid, by unlawful means it is true, what to a poor man may be a severe loss. It is an act which has no tendency to facilitate or encourage the operations of the coiner. It is an occasional act, an act which does not imply that the person who commits it is a person of lawless habits. We think, therefore, that the offence of a casual utterer is perhaps the least heinous of all the offences into which fraud enters.

We considered whether it would be advisable to make it an offence in a person to have in his possession at one time a certain number of counterfeit coins, without being able to explain satisfactorily how he came by them. It did not, after much discussion, appear to us advisable to recommend this or any similar provision. We entertain strong objections to the practice of making circumstances which are in truth only evidence of an offence part of the definition of an offence; nor do we see any reason for departing in this case from our general rule.

Whether a person who is possessed of bad money knows the money to be bad, and whether, knowing it to be bad, he intends to put it in circulation, are questions to be decided by the tribunals according to the circumstances of the case, circumstances of which the mere number of the pieces is only one and may be one of the least important. A few bad rupees which should evidently be fresh from the stamp would be stronger evidence than a greater number of bad rupees which appeared to have been in circulation for years. A few bad rupees, all obviously coined with the same die, would be stronger evidence than a greater number obviously coined with different dies. A few bad rupees placed by themselves, and unmixed with good ones, would be far stronger evidence than a much larger number which might be detected in a large mass of treasure.

NOTE (J).

ON THE CHAPTER OF OFFENCES RELATING TO RELIGION AND CASTE.

The principle on which this chapter has been framed is a principle on which it would be desirable that all Governments should act, but from which the British Government in India cannot depart without risking the dissolution of society; it is this, that every man should be suffered to profess his own religion, and that no man should be suffered to insult the religion of another.

The question whether insults offered to a religion ought to be visited with punishment does not appear to us at all to depend on the question whether that religion be true or false. The religion may be false, but the pain which such insults give to the professors of that religion is real. It is often, as the most superficial observation may convince us, as real a pain and as acute a pain as is caused by almost any offence against the person, against property, or against character. Nor is there any compensating good whatsoever to be set off against this pain. Discussion, indeed, tends to elicit truth. But insults have no such tendency. They can be employed just as easily against the purest faith as against the most monstrous superstition. It is easier to argue against falsehood than against truth. But it is as easy to pull down or defile the temples of truth as those of falsehood. It is as easy to molest with ribaldry and clamour men assembled for purposes of pious and rational worship, as men engaged in the most absurd ceremonies. Such insults, when directed against erroneous opinions, seldom have any other effect than to fix those opinions deeper, and to give a character of peculiar ferocity to theological dissension. Instead of eliciting truth they only inflame fanaticism.

All these considerations apply with peculiar force to India. There is perhaps no country in which the Government has so much to apprehend from religious excitement among the people. The Christians are numerically a very

small minority of the population, and in possession of all the highest posts in the Government, in the tribunals, and in the army. Under their rule are placed millions of Mahomedans, of differing sects, but all strongly attached to the fundamental articles of the Mahomedan creed, and tens of millions of Hindoos, strongly attached to doctrines and rites which Christians and Mahomedans join in reprobating. Such a state of things is pregnant with dangers which can only be averted by a firm adherence to the true principles of toleration. On those principles the British Government has hitherto acted with eminent judgment, and with no less eminent success; and on those principles we propose to frame this part of the penal code.

We have provided a punishment of great severity for the intentional destroying or defiling of places of worship, or of objects held sacred by any class of persons. No offence in the whole code is so likely to lead to tumult, to sanguinary outrage, and even to armed insurrection. The slaughter of a cow in a sacred place at Benares in 1809 caused a violent tumult, attended with considerable loss of llife. The pollution of a mosque at Bangalore was attended with consequences still more lamentable and alarming. We have therefore empowered the Courts, in cases of this description, to pass a very a severe sentence on the offender.

The provisions which we have made for the purpose of protecting assemblies held for religious worship, and of guarding from intentional insult the rites of sepulture and the remains of the dead, do not appear to require any explanation or defence.

The intentional depriving a Hindoo of his caste by assault or by deception is not at present an offence in any part of India, though it may be a ground for a civil action. It appears to us, however, that an injury so wanton, an injury which indicates so bad a feeling in the person who causes it, and which gives so much pain and excites so much resentment in the sufferer, is as proper a subject for penal legislation as most of the acts which are made punishable by this code. We have, therefore, made it an offence. The rendering the food of a Hindoo useless to him by causing it to

be in what he considers as a polluted state is an injury of the same kind, though comparatively venial. We propose to make it an offence, but not to deal with it severely, unless it should be repeatedly committed by the same person.

In framing clause 282, we had two objects in view. We wish to allow all fair latitude to religious discussion, and at the same time to prevent the professors of any religion from offering, under the pretext of such discussion, intentional insults to what is held sacred by others. We do not conceive that any person can be justified in wounding with deliberate intention the religious feelings of his neighbours by words, gesture, or exhibitions. A warm expression dropped in the heat of controversy, or an argument urged by a person, not for the purpose of insulting and annoying the professors of a different creed, but in good faith for the purpose of vindicating his own, will not fall under the definition contained in this clause.

Clause 283 is intended to prevent such practices as those known among the natives by the names of Dhurna and Traga. Such acts are now punishable by law, and it is unnecessary to adduce any argument for the purpose of showing that they ought to be so.

NOTE (K).

ON THE CHAPTER OF ILLICIT ENTRANCE INTO AND ILLICIT RESIDENCE IN THE TERRITORIES OF THE EAST INDIA COMPANY.

The Indian Legislature is required by the Act of Parliament 3 and 4 Wm. IV. cap. 85, section 84, "as soon as conveniently may be, to make laws or regulations providing for the prevention or punishment of the illicit entrance into or residence in the said territories of persons not authorised to enter or reside therein."

We have, therefore, thought it our duty to insert in the penal code provisions for the purpose of carrying the intentions of Parliament into effect.

NOTE (L).

ON OFFENCES RELATING TO THE PRESS.

THE penal provisions contained in this chapter are taken from the Act of the Governor-general of India in Council, No. 11, of 1835.

Sufficient provision appears to us to have been made in other parts of the code, particularly by clause 195, for the punishment of the offence mentioned in the last section of the Act to which we have referred.

NOTE (M).

ON OFFENCES AGAINST THE BODY.

THE first class of offences against the body consists of those offences which affect human life; and highest in this first class stand those offences which fall under the definition of voluntary culpable homicide.

This important part of the law appears to us to require fuller explanation than almost any other.

The first point to which we wish to call the attention of his Lordship in Council is the expression "omits what he is legally bound to do" in the definition of voluntary culpable homicide. These words, or other words tantamount in effect, frequently recur in the code. We think this the most convenient place for explaining the reason which has led us so often to employ them; for if that reason shall appear to be sufficient in cases in which human life is concerned, it will *à fortiori* be sufficient in other cases.

Early in the progress of the code it became necessary for us to consider the following question: When acts are made punishable on the ground that those acts produce, or are intended to produce, or are known to be likely to produce, certain evil effects, to what extent ought omissions which

produce, which are intended to produce, or which are known to be likely to produce, the same evil effects to be made punishable?

Two things we take to be evident; first, that some of these omissions ought to be punished in exactly the same manner in which acts are punished; secondly, that all these omissions ought not to be punished. It will hardly be disputed that a gaoler who voluntarily causes the death of a prisoner by omitting to supply that prisoner with food, or a nurse who voluntarily causes the death of an infant entrusted to her care by omitting to take it out of a tub of water into which it has fallen, ought to be treated as guilty of murder. On the other hand, it will hardly be maintained that a man should be punished as a murderer because he omitted to relieve a beggar, even though there might be the clearest proof that the death of the beggar was the effect of this omission, and that the man who omitted to give the alms knew that the death of the beggar was likely to be the effect of the omission. It will hardly be maintained that a surgeon ought to be treated as a murderer for refusing to go from Calcutta to Meerut to perform an operation, although it should be absolutely certain that this surgeon was the only person in India who could perform it, and that if it were not performed, the person who required it would die. It is difficult to say whether a penal code which should put no omissions on the same footing with acts, or a penal code which should put all omissions on the same footing with acts, would produce consequences more absurd and revolting. There is no country in which either of these principles is adopted. Indeed, it is hard to conceive how, if either were adopted, society could be held together.

It is plain, therefore, that a middle course must be taken; but it is not easy to determine what that middle course ought to be. The absurdity of the two extremes is obvious. But there are innumerable intermediate points; and wherever the line of demarcation may be drawn, it will, we fear, include some cases which we might wish to exempt, and will exempt some which we might wish to include.

Mr. Livingston's code provides, that a person shall be con-

sidered as guilty of homicide who omits to save life, which he could save "without personal danger or pecuniary loss." This rule appears to us to be open to serious objection. There may be extreme inconvenience without the smallest personal danger, or the smallest risk of pecuniary loss, as in the case which we lately put of a surgeon summoned from Calcutta to Meerut to perform an operation. He may be offered such a fee that he would be a gainer by going. He may have no ground to apprehend that he should run any greater personal risk by journeying to the Upper Provinces than by continuing to reside in Bengal. But he is about to proceed to Europe immediately, or he expects some members of his family by the next ship, and wishes to be at the presidency to receive them. He, therefore, refuses to go. Surely, he ought not, for so refusing, to be treated as a murderer. It would be somewhat inconsistent to punish one man for not staying three months in India to save the life of another, and to leave wholly unpunished a man who, enjoying ample wealth, should refuse to disburse an anna to save the life of another. Again, it appears to us that it may be fit to punish a person as a murderer for causing death by omitting an act which cannot be performed without personal danger or pecuniary loss. A parent may be unable to procure food for an infant without money. Yet the parent, if he has the means, is bound to furnish the infant with food, and if, by omitting to do so, he voluntarily causes its death, he may with propriety be treated as a murderer. A nurse hired to attend a person suffering from an infectious disease cannot perform her duty without running some risk of infection. Yet if she deserts the sick person, and thus voluntarily causes his death, we should be disposed to treat her as a murderer.

We pronounce with confidence, therefore, that the line ought not to be drawn where Mr. Livingston has drawn it. But it is with great diffidence that we bring forward our own proposition. It is open to objections: cases may be put in which it will operate too severely, and cases in which it will operate too leniently; but we are unable to devise a better.

What we propose is this, that where acts are made punishable on the ground that they have caused, or have been intended to cause, or have been known to be likely to cause, a certain evil effect, omissions which have caused, which have been intended to cause, or which have been known to be likely to cause the same effect, shall be punishable in the same manner, provided that such omissions were, on other grounds, illegal. An omission is illegal (see clause 28) if it be an offence, if it be a breach of some direction of law, or if it be such a wrong as would be a good ground for a civil action.

We cannot defend this rule better than by giving a few illustrations of the way in which it will operate. A. omits to give Z. food, and by that omission voluntarily causes Z.'s death. Is this murder? Under our rule it is murder if A. was Z.'s gaoler, directed by the law to furnish Z. with food. It is murder if Z. was the infant child of A., and had therefore a legal right to sustenance, which right a Civil Court would enforce against A. It is murder if Z. was a bedridden invalid, and A. a nurse hired to feed Z. It is murder if A. was detaining Z. in unlawful confinement, and had thus contracted (see clause 338) a legal obligation to furnish Z., during the continuance of the confinement, with necessaries. It is not murder if Z. is a beggar, who has no other claim on A. than that of humanity.

A. omits to tell Z. that a river is swollen so high that Z. cannot safely attempt to ford it, and by this omission voluntarily causes Z.'s death. This is murder if A. is a peon stationed by authority to warn travellers from attempting to ford the river. It is murder if A. is a guide who had contracted to conduct Z. It is not murder if A. is a person on whom Z. has no other claim than that of humanity.

A savage dog fastens on Z. A. omits to call off the dog, knowing that if the dog be not called off, it is likely that Z. will be killed. Z. is killed. This is murder in A. if the dog belonged to A., inasmuch as his omission to take proper order with the dog is illegal. (Clause 273.) But if A. be a mere passer-by, it is not murder.

We are sensible that in some of the cases which we have

put, our rule may appear too lenient; but we do not think that it can be made more severe without disturbing the whole order of society. It is true that the man who, having abundance of wealth, suffers a fellow creature to die of hunger at his feet is a bad man, a worse man, probably, than many of those for whom we have provided very severe punishment. But we are unable to see where, if we make such a man legally punishable, we can draw the line. If the rich man who refuses to save a beggar's life at the cost of a little copper is a murderer, is the poor man just one degree above beggary also to be a murderer if he omits to invite the beggar to partake his hard-earned rice? Again, if the rich man is a murderer for refusing to save the beggar's life at the cost of a little copper, is he also to be a murderer if he refuses to save the beggar's life at the cost of a thousand rupees? Suppose A. to be fully convinced that nothing can save Z.'s life unless Z. leave Bengal and reside a year at the Cape; is A., however wealthy he may be, to be punished as a murderer because he will not, at his own expense, send Z. to the Cape? Surely not. Yet it will be difficult to say on what principle we can punish A. for not spending an anna to save Z.'s life, and leave him unpunished for not spending a thousand rupees to save Z.'s life. The distinction between a legal and an illegal omission is perfectly plain and intelligible; but the distinction between a large and a small sum of money is very far from being so, not to say that a sum which is small to one man is large to another.

The same argument holds good in the case of the ford. It is true that none but a very depraved man would suffer another to be drowned when he might prevent it by a word. But if we punish such a man, where are we to stop? How much exertion are we to require? Is a person to be a murderer if he does not go fifty yards through the sun of Bengal at noon in May in order to caution a traveller against a swollen river? Is he to be a murderer if he does not go a hundred yards? — if he does not go a mile? — if he does not go ten? What is the precise amount of trouble and inconvenience which he is to endure? The distinction between the guide who is bound to conduct the traveller as safely as

he can, and a mere stranger, is a clear distinction. But the distinction between a stranger who will not give a halloo to save a man's life, and a stranger who will not run a mile to save a man's life, is very far from being equally clear.

It is, indeed, most highly desirable that men should not merely abstain from doing harm to their neighbours, but should render active services, to their neighbours. In general, however, the penal law must content itself with keeping men from doing positive harm, and must leave to public opinion, and to the teachers of morality and religion, the office of furnishing men with motives for doing positive good. It is evident that to attempt to punish men by law for not rendering to others all the service which it is their duty to render to others would be preposterous. We must grant impunity to the vast majority of those omissions which a benevolent morality would pronounce reprehensible, and must content ourselves with punishing such omissions only when they are distinguished from the rest by some circumstance which marks them out as peculiarly fit objects of penal legislation. Now, no circumstance appears to us so well fitted to be the mark as the circumstance which we have selected. It will generally be found in the most atrocious cases of omission; it will scarcely ever be found in a venial case of omission; and it is more clear and certain than any other mark that has occurred to us. That there are objections to the line which we propose to draw, we have admitted. But there are objections to every line which can be drawn, and some line must be drawn.

The next point to which we wish to call the attention of his Lordship in Council is the unqualified use of the words "to cause death" in the definition of voluntary culpable homicide.

We long considered whether it would be advisable to except from this definition any description of acts or illegal omissions, on the ground that such acts or illegal omissions do not ordinarily cause death, or that they cause death very remotely. We have determined, however, to leave the clause in its present simple and comprehensive form.

There is undoubtedly a great difference between acts

which cause death immediately, and acts which cause death remotely; between acts which are almost certain to cause death, and acts which cause death only under very extraordinary circumstances. But that difference, we conceive, is a matter to be considered by the tribunals when estimating the effect of the evidence in a particular case, not by the legislature in framing the general law. It will require strong evidence to prove that an act of a kind which very seldom causes death, or an act which has caused death very remotely, has actually caused death in a particular case. It will require still stronger evidence to prove that such an act was contemplated by the person who did it as likely to cause death. But if it be proved by satisfactory evidence that death has been so caused, and has been caused voluntarily, we see no reason for exempting the person who caused it from the punishment of voluntary culpable homicide.

Mr. Livingston, we observe, excepts from the definition of homicide cases in which death is produced by the effect of words on the imagination or the passions. The reasoning of that distinguished jurist has by no means convinced us that the distinction which he makes is well founded. Indeed, there are few parts of his code which appear to us to have been less happily executed than this. His words are these: "The destruction must be by the act of another; therefore self-destruction is excluded from the definition. It must be operated by some act; therefore death, although produced by the operation of words on the imagination or the passions, is not homicide. But if words are used which are calculated to produce and do produce some act which is the immediate cause of death, it is homicide. A blind man or a stranger in the dark, directed by words only to a precipice, where he falls and is killed; a direction verbally given to take a drug that it is known will prove fatal, and which has that effect, are instances of this modification of the rule."

This appears to us altogether incoherent. A. verbally directs Z. to swallow a poisonous drug; Z. swallows it, and dies; and this, says Mr. Livingston, is homicide in A. It certainly ought to be so considered. But how, on Mr. Livingston's principles, it can be so considered we do not under-

stand. "Homicide," he says, "must be operated by an act." Where then is the act in this case? Is it the speaking of A.? Clearly not, for Mr. Livingston lays down the doctrine that speaking is not an act. Is it the swallowing by Z.? Clearly not, for the destruction of life, according to Mr. Livingston, is not homicide unless it be by the act of another, and this swallowing is an act performed by Z. himself.

The reasonable course, in our opinion, is to consider speaking as an act, and to treat A. as guilty of voluntary culpable homicide, if by speaking he has voluntarily caused Z.'s death, whether his words operated circuitously by inducing Z. to swallow poison, or directly by throwing Z. into convulsions.

There will indeed be few homicides of this latter sort. It appears to us that a conviction, or even a trial, in such a case would be an event of extremely rare occurrence. There would probably not be one such trial in a century. It would be most difficult to prove to the conviction of any Court that death had really been the effect of excitement produced by words. It would be still more difficult to prove that the person who spoke the words anticipated from them an effect which, except under very peculiar circumstances, and on very peculiar constitutions, no words would produce. Still it seems to us that both these points might be made out by overwhelming evidence; and, supposing them to be so made out, we are unable to perceive any distinction between the case of him who voluntarily causes death in this manner, and the case of him who voluntarily causes death by means of a pistol or a sword. Suppose it to be proved to the entire conviction of a Criminal Court that Z., the deceased, was in a very critical state of health; that A., the heir to Z.'s property, had been informed by Z.'s physicians that Z.'s recovery absolutely depended on his being kept quiet in mind, and that the smallest mental excitement would endanger his life; that A. immediately broke into Z.'s sick-room, and told him a dreadful piece of intelligence, which was a pure invention; that Z. went into fits and died on the spot; that A. had afterwards boasted of having cleared the way for himself to a good property by this artifice. These things being fully

proved, no judge could doubt that A. had voluntarily caused the death of Z.; nor do we perceive any reason for not punishing A. in the same manner in which he would have been punished if he had mixed arsenic in Z.'s medicine.

Again, Mr. Livingston excepts from the definition of homicide the case of a person who dies of a slight wound, which, from neglect or from the application of improper remedies, has proved mortal. We see no reason for excepting such cases from the simple general rule which we propose. It will, indeed, be in general more difficult to prove that death has been caused by a scratch than by a stab which has reached the heart; and it will, in a still greater degree, be more difficult to prove that a scratch was intended to cause death than that a stab was intended to cause death; yet both these points might be fully established. Suppose such a case as the following: — It is proved that A. inflicted a slight wound on Z., a child who stood between him and a large property. It is proved that the ignorant and superstitious servants about Z. applied the most absurd remedies to the wound. It is proved that under their treatment the wound mortified, and the child died. Letters from A. to a confidant are produced. In those letters, A. congratulates himself on his skill, remarks that he could not have inflicted a more severe wound without exposing himself to be punished as a murderer, relates with exultation the mode of treatment followed by the people who have charge of Z., and boasts that he always foresaw that they would turn the slightest incision into a mortal wound. It appears to us, that if such evidence were produced, A. ought to be punished as a murderer.

Again, suppose that A. makes a deliberate attempt to commit assassination. In the presence of numbers he aims a knife at the heart of Z. But the knife glances aside, and inflicts only a slight wound. This happened in the case of Jean Chatel, of Damien, of Guiscard, and of many other assassins of the most desperate character. In such cases there is no doubt whatever as to the intention. Suppose that the person who received the wound is under the necessity of exposing himself to a moist atmosphere immediately

afterwards, and that, in consequence, he is attacked with tetanus and dies. Here again, however slight the wound may have been, we are unable to perceive any good reason for not punishing A. as a murderer.

We will only add that this provision of the Code of Louisiana appears to us peculiarly ill-suited to a country in which, we have reason to fear, neglect and bad treatment are far more common than good medical treatment.

The general rule, therefore, which we propose is, that the question whether a person has by an act or illegal omission voluntarily caused death shall be left a question of evidence to be decided by the Courts, according to the circumstances of every case.

We propose that all voluntary culpable homicide shall be designated as murder, unless it fall under one of three heads. We are desirous to call the particular attention of his Lordship in Council to the law respecting the three mitigated forms of voluntary culpable homicide ; and first to the law of manslaughter.

We agree with the great mass of mankind, and with the majority of jurists, ancient and modern, in thinking that homicide committed in the sudden heat of passion, on great provocation, ought to be punished ; but that in general it ought not to be punished so severely as murder. It ought to be punished in order to teach men to entertain a peculiar respect for human life ; it ought to be punished in order to give men a motive for accustoming themselves to govern their passions ; and in some few cases for which we have made provision, we conceive that it ought to be punished with the utmost rigour.

In general, however, we would not visit homicide committed in violent passion, which had been suddenly provoked, with the highest penalties of the law. We think that to treat a person guilty of such homicide as we should treat a murderer would be a highly inexpedient course, — a course which would shock the universal feeling of mankind, and would engage the public sympathy on the side of the delinquent against the law.

His Lordship in Council will remark one important dis-

tinction between the law as we have framed it and some other systems. Neither the English law nor the French code extends any indulgence to homicide which is the effect of anger excited by words alone. Mr. Livingston goes still further. "No words whatever," says the code of Louisiana, "are an adequate cause, no gestures merely showing derision or contempt, no assault or battery so slight as to show that the intent was not to inflict great bodily harm."

We greatly doubt whether any good reason can be assigned for this distinction. It is an indisputable fact that gross insults by word or gesture have as great a tendency to move many persons to violent passion as dangerous or painful bodily injuries. Nor does it appear to us that passion excited by insult is entitled to less indulgence than passion excited by pain. On the contrary, the circumstance that a man resents an insult more than a wound is anything but a proof that he is a man of a peculiarly bad heart. It would be a fortunate thing for mankind if every person felt an outrage which left a stain upon his honour more acutely than an outrage which had fractured one of his limbs. If so, why should we treat an offence produced by the blamable excess of a feeling which all wise legislators desire to encourage, more severely than we treat the blamable excess of feelings certainly not more respectable?

One outrage which wounds only the honour and the affections is admitted by Mr. Livingston to be an adequate provocation. "A discovery of the wife of the accused in the act of adultery with the person killed is an adequate cause." The law of France, the law of England and the Mahomedan law are also indulgent to homicide committed under such circumstances. We must own that we can see no reason for making a distinction between this provocation and many other provocations of the same kind. We cannot consent to lay it down as an universal rule that in all cases this provocation shall be considered as an adequate provocation. Circumstances may easily be conceived which would satisfy a Court that a husband had in such a case acted from no feeling of wounded honour or affection, but from mere brutality of nature, or from disappointed cupidity. On the

other hand, we conceive that there are many cases in which as much indulgence is due to the excited feelings of a father or a brother as to those of a husband. That a worthless, unfaithful, and tyrannical husband should be guilty only of manslaughter for killing the paramour of his wife, and that an affectionate and high-spirited brother should be guilty of murder for killing, in a paroxysm of rage, the seducer of his sister, appears to us inconsistent and unreasonable.

There is another class of provocations which Mr. Livingston does not allow to be adequate in law, but which have been, and while human nature remains unaltered, will be, adequate in fact to produce the most tremendous effects. Suppose a person to take indecent liberties with a modest female, in the presence of her father, her brother, her husband, or her lover. Such an assault might have no tendency to cause pain or danger; yet history tells us what effects have followed from such assaults. Such an assault produced the Sicilian Vespers. Such an assault called forth the memorable blow of Wat Tyler. It is difficult to conceive any class of cases in which the intemperance of anger ought to be treated with greater lenity. So far, indeed, should we be from ranking a man who acted like Tyler with murderers, that we conceive that a judge would exercise a sound discretion in sentencing such a man to the lowest punishment fixed by the law for manslaughter.

We think it right to add that, though in our remarks on this part of the law we have used illustrations drawn from the history and manners of Europe, the arguments which we have employed apply as strongly to the state of society in India as to the state of society in any part of the globe. There is perhaps no country in which more cruel suffering is inflicted, and more deadly resentment called forth, by injuries which affect only the mental feelings.

A person who should offer a gross insult to the Mahomedan religion in the presence of a zealous professor of that religion; who should deprive some high-born Rajpoot of his caste; who should rudely thrust his head into the covered palanquin of a woman of rank, would probably move those whom he insulted to more violent anger than if he had

caused them some severe bodily hurt. That on these subjects our notions and usages differ from theirs is nothing to the purpose. We are legislating for them, and though we may wish that their opinions and feelings may undergo a considerable change, it is our duty, while their opinions and feelings remain unchanged, to pay as much respect to those opinions and feelings as if we partook of them. We are legislating for a country where many men, and those by no means the worst men, prefer death to the loss of caste; where many women, and those by no means the worst women, would consider themselves as dishonoured by exposure to the gaze of strangers: and to legislate for such a country, as if the loss of caste or the exposure of a female face were not provocations of the highest order, would, in our opinion, be unjust and unreasonable.

The second mitigated form of voluntary culpable homicide is that to which we have given the name of voluntary culpable homicide by consent. It appears to us that this description of homicide ought to be punished, but that it ought not to be punished so severely as murder. We have elsewhere given our reasons for thinking that this description of homicide ought to be punished.[1]

Our reasons for not punishing it so severely as murder are these. In the first place, the motives which prompt men to the commission of this offence are generally far more respectable than those which prompt men to the commission of murder. Sometimes it is the effect of a strong sense of religious duty, sometimes of a strong sense of honour, not unfrequently of humanity. The soldier, who, at the entreaty of a wounded comrade, puts that comrade out of pain, the friend who supplies laudanum to a person suffering the torment of a lingering disease, the freedman who in ancient times held out the sword that his master might fall on it, the high-born native of India who stabs the females of his family at their own entreaty in order to save them from the licentiousness of a band of marauders, would, except in Christian societies, scarcely be thought culpable, and even in Christian societies would not be regarded by the public, and ought not to be treated by the law, as assassins.

[1] See Note (B).

Again, this crime is by no means productive of so much evil to the community as murder. One evil ingredient of the utmost importance is altogether wanting to the offence of voluntary culpable homicide by consent. It does not produce general insecurity. It does not spread terror through society. When we punish murder with such signal severity, we have two ends in view. One end is, that people may not be murdered. Another end is, that people may not live in constant dread of being murdered. This second end is perhaps the more important of the two. For if assassination were left unpunished, the number of persons assassinated would probably bear a very small proportion to the whole population; but the life of every human being would be passed in constant anxiety and alarm. This property of the offence of murder is not found in the offence of voluntary culpable homicide by consent. Every man who has not given his consent to be put to death is perfectly certain that this latter offence cannot at present be committed on him, and that it never will be committed unless he shall first be convinced that it is his interest to consent to it. We know that two or three midnight assassinations are sufficient to keep a city of a million of inhabitants in a state of consternation during several weeks, and to cause every private family to lay in arms and watchmen's rattles. No number of suicides, or of homicides committed with the unextorted consent of the person killed, could possibly produce such alarm among the survivors.

The distinction between murder and voluntary culpable homicide by consent has never, as far as we are aware, been recognised by any code in the distinct manner in which we propose to recognise it; but it may be traced in the laws of many countries, and often, when neglected by those who have framed the laws, it has had a great effect on the decisions of the tribunals, and particularly on the decisions of tribunals popularly composed. It may be proper to observe that the burning of a Hindoo widow by her own consent, though it is now, as it ought to be, an offence by the Regulations of every Presidency, is in no Presidency punished as murder.

The third mitigated form of voluntary culpable homicide is that which we have designated as voluntary culpable homicide in defence.

We have been forced to leave the law on the subject of private defence, as we have elsewhere said, in an unsatisfactory state; and, though we hope and believe that it may be greatly improved, we fear that it must always continue to be one of the least precise parts of every system of jurisprudence. That portion of the law of homicide which we are now considering is closely connected with the law of private defence, and must necessarily partake of the imperfections of the law of private defence. But wherever the limits of the right of private defence may be placed, and with whatever degree of accuracy they may be marked, we are inclined to think that it will always be expedient to make a separation between murder and what we have designated as voluntary culpable homicide in defence.

The chief reason for making this separation is that the law itself invites men to the very verge of the crime which we have designated as voluntary culpable homicide in defence. It prohibits such homicide indeed; but it authorises acts which lie very near to such homicide; and this circumstance, we think, greatly mitigates the guilt of such homicide.

That a man who deliberately kills another in order to prevent that other from pulling his nose should be allowed to go absolutely unpunished, would be most dangerous. The law punishes and ought to punish such killing. But we cannot think that the law ought to punish such killing as murder. For the law itself has encouraged the slayer to inflict on the assailant any harm short of death which may be necessary for the purpose of repelling the outrage, — to give the assailant a cut with a knife across the fingers which may render his right hand useless to him for life, or to hurl him down stairs with such force as to break his leg; and it seems difficult to conceive that circumstances which would be a full justification of any violence short of homicide should not be a mitigation of the guilt of homicide. That a man should be merely exercising a right by fracturing the skull and knocking out the eye of an assailant, and should be

guilty of the highest crime in the code if he kills the same assailant; that there should be only a single step between perfect innocence and murder, between perfect impunity and liability to capital punishment, seems unreasonable. In a case in which the law itself empowers an individual to inflict any harm short of death, it ought hardly, we think, to visit him with the highest punishment if he inflicts death.

It is to be considered also that the line between those aggressions which it is lawful to repel by killing, and those which it is not lawful so to repel, is in our code, and must be in every code, to a great extent an arbitrary line, and that many individual cases will fall on one side of that line which, if we had framed the law with a view to those cases alone, we should place on the other. Thus we allow a man to kill if he has no other means of preventing an incendiary from burning a house; and we do not allow him to kill for the purpose of preventing the commission of a simple theft. But a house may be a wretched heap of mats and thatch, propped by a few bamboos, and not worth altogether twenty rupees. A simple theft may deprive a man of a pocket-book which contains bills to a great amount, the savings of a long and laborious life, the sole dependence of a large family. That in these cases the man who kills the incendiary should be pronounced guiltless of any offence, and that the man who kills the thief should be sentenced to the gallows, or, if he is treated with the utmost lenity which the Courts can show, to perpetual transportation or imprisonment, would be generally condemned as a shocking injustice. We are, therefore, clearly of opinion that the offence which we have designated as voluntary culpable homicide in defence ought to be distinguished from murder in such a manner that the Courts may have it in their power to inflict a slight or a merely nominal punishment on acts which, though not within the letter of the law which authorises killing in self defence, are yet within the reason of that law.

We have hitherto been considering the law of voluntary culpable homicide. But homicide may be culpable, yet not voluntary. There will probably be little difference of opinion as to the expediency of providing a punishment for the

rash and negligent causing of death. But it may be thought that we have dealt too leniently by the offender who, while committing a crime, causes death which he did not intend to cause or know himself to be likely to cause.

The law, as we have framed it, differs widely from the English law. "If," says Sir William Blackstone, "one intends to do another felony, and undesignedly kills a man, this is murder;" and he gives the following illustration of the rule: "If one gives a woman with child a medicine to produce abortion, and it operates so violently as to kill the woman, this is murder in the person who gave it."

Under the provisions of our code, this case would be very differently dealt with according to circumstances. If A. kills Z. by administering abortives to her, with the knowledge that those abortives are likely to cause her death, he is guilty of voluntary culpable homicide, which will be voluntary culpable homicide by consent, if Z. agreed to run the risk, and murder if Z. did not so agree. If A. causes miscarriage to Z., not intending to cause Z.'s death, nor thinking it likely that he shall cause Z.'s death, but so rashly or negligently as to cause her death, A. is guilty of culpable homicide not voluntary, and will be liable to the punishment provided for the causing of miscarriage, increased by imprisonment for a term not exceeding two years. Lastly, if A. took such precautions that there was no reasonable probability that Z.'s death would be caused, and if the medicine were rendered deadly by some accident which no human sagacity could have foreseen, or by some peculiarity in Z.'s constitution such as there was no ground whatever to expect, A. will be liable to no punishment whatever on account of her death, but will of course be liable to the punishment provided for causing miscarriage.

It may be proper for us to offer some arguments in defence of this part of the code.

It will be admitted that when an act is in itself innocent, to punish the person who does it because bad consequences, which no human wisdom could have foreseen, have followed from it, would be in the highest degree barbarous and absurd.

A pilot is navigating the Hooghly with the utmost care

and skill: he directs the vessel against a sand-bank which has been recently formed, and of which the existence was altogether unknown till this disaster. Several of his passengers are consequently drowned. To hang the pilot as a murderer on account of this misfortune would be universally allowed to be an act of atrocious injustice. But if the voyage of the pilot be itself a high offence, ought that circumstance alone to turn his misfortune into a murder? Suppose that he is engaged in conveying an offender beyond the reach of justice; that he has kidnapped some natives, and is carrying them to a ship which is to convey them to some foreign slave-colony; that he is violating the laws of quarantine at a time when it is of the highest importance that those laws should be strictly observed; that he is carrying supplies, deserters, and intelligence to the enemies of the state. The offence of such a pilot ought, undoubtedly, to be severely punished. But to pronounce him guilty of one offence because a misfortune befell him while he was committing another offence, — to pronounce him the murderer of people whose lives he never meant to endanger, whom he was doing his best to carry safe to their destination, and whose death has been purely accidental, — is surely to confound all the boundaries of crime.

Again, A. heaps fuel on a fire, not in an imprudent manner, but in such a manner that the chance of harm is not worth considering. Unhappily the flame bursts out more violently than there was reason to expect. At the same moment a sudden puff of wind blows Z.'s light dress towards the hearth. The dress catches fire, and Z. is burned to death. To punish A. as a murderer on account of such an unhappy event would be senseless cruelty. But suppose that the fuel which caused the flame to burst forth was a will, which A. was fraudulently destroying: ought this circumstance to make A. the murderer of Z.? We think not. For the fraudulent destroying of wills, we have provided, in other parts of the code, punishments which we think sufficient. If not sufficient, they ought to be made so. But we cannot admit that Z.'s death has, in the smallest degree, aggravated A.'s offence, or ought to be considered in apportioning A.'s punishment.

To punish as a murderer every man who, while committing a heinous offence, causes death by pure misadventure, is a course which evidently adds nothing to the security of human life. No man can so conduct himself as to make it absolutely certain that he shall not be so unfortunate as to cause the death of a fellow-creature. The utmost that he can do is to abstain from every thing which is at all likely to cause death. No fear of punishment can make him do more than this; and, therefore, to punish a man who has done this can add nothing to the security of human life. The only good effect which such punishment can produce will be to deter people from committing any of those offences which turn into murders what are in themselves mere accidents. It is in fact an addition to the punishment of those offences, and it is an addition made in the very worst way. For example, hundreds of persons in some great cities are in the habit of picking pockets. They know that they are guilty of a great offence; but it has never occurred to one of them, nor would it occur to any rational man, that they are guilty of an offence which endangers life. Unhappily one of these hundreds attempts to take the purse of a gentleman who has a loaded pistol in his pocket. The thief touches the trigger, the pistol goes off, the gentleman is shot dead. To treat the case of this pickpocket differently from that of the numerous pickpockets who steal under exactly the same circumstances, with exactly the same intentions, with no less risk of causing death, with no greater care to avoid causing death; to send them to the house of correction as thieves, and him to the gallows as a murderer, appears to us an unreasonable course. If the punishment for stealing from the person be too light, let it be increased, and let the increase fall alike on all the offenders. Surely the worst mode of increasing the punishment of an offence is to provide that, besides the ordinary punishment, every offender shall run an exceedingly small risk of being hanged. The more nearly the amount of punishment can be reduced to a certainty the better; but if chance is to be admitted, there are better ways of admitting it. It would be a less capricious, and therefore a more salutary course, to provide that

every fiftieth or every hundredth thief selected by lot should be hanged, than to provide that every thief should be hanged who, while engaged in stealing, should meet with an unforeseen misfortune, such as might have befallen the most virtuous man while performing the most virtuous action.

We trust that his Lordship in Council will think that we have judged correctly in proposing that when a person engaged in the commission of an offence causes death by pure accident, he shall suffer only the punishment of his offence, without any addition on account of such accidental death.

When a person engaged in the commission of an offence causes death by rashness or negligence, but without either intending to cause death, or thinking it likely that he shall cause death, we propose that he shall be liable to the punishment of the offence which he was engaged in committing, superadded to the ordinary punishment of involuntary culpable homicide.

The arguments and illustrations which we have employed for the purpose of showing that the involuntary causing of death, without either rashness or negligence, ought, under no circumstances, to be punished at all, will, with some modifications, which will readily suggest themselves, serve to show that the involuntary causing of death by rashness or negligence, though always punishable, ought under no circumstances to be punished as murder.

It gives us great pleasure to observe, that Mr. Livingston's provisions on this subject, though in details they differ widely from ours, are framed on the principles which we have here defended.

We wish next to call the attention of his Lordship in Council to clauses 308 and 309.

These clauses appear to us absolutely necessary to the completeness of the code. We have provided, under the head of bodily hurt, for cases in which hurt is inflicted in an attempt to murder; under the head of assault, for assaults committed in attempting to murder; under the head of criminal trespass, for some criminal trespasses committed in order to murder. But there will still remain many atrocious and deliberate attempts to murder which are not trespasses,

which are not assaults, and which cause no hurt. A., for example, digs a pit in his garden, and conceals the mouth of it, intending that Z. may fall in and perish there. Here A. has committed no trespass, for the ground is his own; and no assault, for he has applied no force to Z. He may not have caused bodily hurt, for Z. may have received a timely caution, or may not have gone near the pit. But A.'s crime is evidently one which ought to be punished as severely as if he had laid hands on Z. with the intention of cutting his throat.

Again, A. sets poisoned food before Z. Here A. may have committed no trespass, for the food may be his own; and if so, he violates no right of property by mixing arsenic with it. He commits no assault, for he means the taking of the food to be Z.'s voluntary act. If Z. does not swallow enough of the poisoned food to disorder him, A. causes no bodily hurt. Yet it is plain that A. has been guilty of a crime of a most atrocious description.

Similar attempts may be made to commit voluntary culpable homicide in any of the three mitigated forms. A., for example, is excited to violent passion by Z., and fires a pistol intending to kill Z. If the shot proves fatal, A. will be guilty of manslaughter; and he surely ought not to be exempted from all punishment if the ball only grazes the intended victim.

It is to meet cases of this description that clauses 308 and 309 are intended.

With respect to the law on the subject of abortion, we think it necessary to say only that we entertain strong apprehensions that this or any other law on that subject may, in this country, be abused to the vilest purposes. The charge of abortion is one which, even where it is not substantiated, often leaves a stain on the honour of families. The power of bringing a false accusation of this description is therefore a formidable engine in the hands of unprincipled men. This part of the law will, unless great care be taken, produce few convictions, but much misery and terror to respectable families, and a large harvest of profit to the vilest pests of society. We trust that it may be in our power in

the code of procedure to lay down rules which may prevent such an abuse. Should we not be able to do so, we are inclined to think that it would be our duty to advise his Lordship in Council rather to suffer abortion, where the mother is a party to the offence, to remain wholly unpunished, than to repress it by provisions which would occasion more suffering to the innocent than to the guilty.

Every one of those offences against the human body which remain to be considered falls under some one or more of the following heads: Hurt, Restraint, Assault, Kidnapping, Rape, Unnatural crimes.

Many of the offences which fall under the head of Hurt will also fall under the head of assault. A stab, a blow which fractures a limb, the flinging of boiling water over a person, are assaults, and are also acts which cause bodily hurt. But bodily hurt may be caused by many acts which are not assaults. A person, for example, who mixes a deleterious potion, and places it on the table of another; a person who conceals a scythe in the grass on which another is in the habit of walking; a person who digs a pit in a public path, intending that another may fall into it, may cause serious hurt, and may be justly punished for causing such hurt; but they cannot, without extreme violence to language, be said to have committed assaults.

We propose to designate all pain, disease, and infirmity by the name of hurt.

We have found it very difficult to draw a line between those bodily hurts which are serious and those which are slight. To draw such a line with perfect accuracy is, indeed, absolutely impossible; but it is far better that such a line should be drawn, though rudely, than that offences some of which approach in enormity to murder, while others are little more than frolics which a good-natured man would hardly resent, should be classed together.

We have, therefore, designated certain kinds of hurt as *grievous*.

We have given this name to emasculation, — to the loss of the sight of either eye, — to the loss of the hearing of either ear, — to the loss of any member or joint, — to the perma-

nent loss of the perfect use of any member or joint, — to the permanent disfiguration of the head or face, — to the fracture and to the dislocation of bones. Thus far we proceed on sure ground. But a more difficult task remains. Some hurts which are not, like those kinds of hurt which we have just mentioned, distinguished by a broad and obvious line from slight hurts, may nevertheless be most serious. A wound, for example, which neither emasculates the sufferer, nor blinds him, nor destroys his hearing, nor deprives him of a member or a joint, nor permanently deprives him of the use of a member or a joint, nor disfigures his countenance, nor breaks his bones, nor dislocates them, may yet cause intense pain, prolonged disease, lasting injury to the constitution. It is evidently desirable that the law should make a distinction between such a wound, and a scratch which is healed with a little sticking plaster. A beating, again, which does not maim the sufferer or break his bones, may be so cruel as to bring him to the point of death. Such a beating, it is clear, ought not to be confounded with a bruise, which requires only to be bathed with vinegar, and of which the traces disappear in a day.

After long consideration we have determined to give the name of grievous bodily hurt to all hurt which causes the sufferer to be in pain, diseased, or unable to pursue his ordinary avocations, during the space of twenty days.

This provision was suggested to us by article 309 of the French Penal Code. That article runs thus: "Sera puni de la peine de la réclusion, tout individu qui aura fait des blessures ou porté des coups, s'il est resulté de ces actes de violence une maladie ou incapacité de travail personnel pendant plus de vingt jours." *Réclusion*, it is to be observed, signifies imprisonment and hard labour for a term of not less than five nor more than ten years.

This law appears, from the *procès verbal* of Napoleon's council of state, to have been adopted without calling forth a single [1] observation; but it has since been severely criticised by French jurists, and has been mitigated by the French legislature. Indeed, it ought to have been com-

[1] Locré, Legislation de France. Vol. 30, page 362.

pletely recast, for it is undoubtedly one of the most exceptionable laws in the code.

A man who means only to inflict a slight hurt may, without intending or expecting to do so, cause a hurt which is exceedingly serious. A push which to a man in health is a trifle may, if it happens to be directed against a diseased part of an infirm person, occasion consequences which the offender never contemplated as possible. A blow designed to inflict only the pain of a moment may cause the person struck to lose his footing, to fall from a considerable height, and to break a limb. In such cases, to punish the assailant with five years of strict imprisonment would be in the highest degree unjust and cruel. It is said, and we can easily believe it,[1] that, in such cases, the French juries have frequently refused, in spite of the clearest evidence, to pronounce a decision which would have subjected the accused to a punishment so obviously disproportioned to his offence.

We have attempted to preserve and to extend what is good in this article of the French code, and to avoid the evils which we have noticed. It appears to us that the length of time during which a sufferer is in pain, diseased, or incapacitated from pursuing his ordinary avocations, though a defective criterion of the severity of a hurt, is still the best criterion that has ever been devised. It is a criterion which may, we think, with propriety be employed not merely in cases where violence has been used, but in cases where hurt has been caused without any assault, as by the administration of drugs, the setting of traps, the digging of pit-falls, the placing of ropes across a road. But though we have borrowed from the French code this test of the severity of bodily injuries, we have framed our penal provisions on a principle quite different from that by which the authors of the French code appear to have been guided. In apportioning the punishment, we take into consideration both the extent of the hurt and the intention of the offender.

What we propose is, that the voluntary infliction of simple bodily hurt shall be punished with imprisonment of either

[1] Paillet, Manuel de Droit Français. Note on clause 309 of the Penal Code.

description, which may extend to one year, or fine, or both; the voluntary infliction of grievous bodily hurt with imprisonment of either description for a term which may extend to ten years and must not be less than six months, to which fine may be added.

These are the ordinary punishments; but there are certain aggravating and mitigating circumstances which make a considerable difference.

Where bodily hurt is voluntarily inflicted in an attempt to murder the person hurt, we propose to punish the offender with transportation for life, or with imprisonment for a term which may extend to life, and cannot be less than seven years. It does not appear to us that, where the murderous intention is made out, the severity of the hurt inflicted is a circumstance which ought to be considered in apportioning the punishment. It is undoubtedly a circumstance which will be important as evidence. A Court will generally be more easily satisfied of the murderous intention of an assailant who has fractured a man's skull, than of one who has only caused a slight contusion. But the proof might be complete. To take examples which are universally known: — Harley was laid up more than twenty days by the wound which he received from Guiscard; the scratch which Damien gave to Lewis the Fifteenth was so slight that it was followed by no feverish symptoms. Yet it will be allowed that it would be absurd to make a distinction between the two assassins on this ground.

We propose that when bodily hurt is inflicted by way of torture, the punishment shall be very severe. In England, happily, such a provision would be unnecessary. But the execrable cruelties which are committed by robbers in this country for the purpose of extorting property, or information relating to property, render it absolutely necessary here. We propose that in such cases, if the hurt inflicted be what we have designated as *grievous*, the offender shall be punished with transportation for life, or with imprisonment for a term which may extend to life, and which shall not be less than seven years. Where the hurt is not grievous, we propose that the imprisonment shall be for a term of not more than fourteen years, nor less than one year.

Bodily hurt may be inflicted by means the use of which generally indicates great malignity. A blow with the fist may cause as much pain, and produce as lasting injury, as laceration with a knife, or branding with a hot iron. But it will scarcely be disputed that, in the vast majority of cases, the offender who has used a knife or a hot iron for the purpose of wreaking his hatred is a far worse and more dangerous member of society than he who has only used his fist. It appears to us that many hurts which would not, according to our classification, be designated as grievous, ought yet, on account of the mode in which they are inflicted, to be punished more severely than many grievous hurts. We propose, therefore, that where bodily hurt is voluntarily caused by means of any sharp instrument, of fire, of any heated substance, of any corrosive substance, of any explosive substance, of any poison internal or external, or of any animal, the maximum of imprisonment may be increased, in cases of grievous bodily hurt, to fourteen years, in other cases to three years.

In cases where bodily hurt is voluntarily caused on grave and sudden provocation, we propose to mitigate the punishment. This mitigation is common to cases of hurt and of grievous hurt. But the voluntary causing of grievous hurt on great and sudden provocation will still be punishable more severely than the voluntary causing of hurt not grievous on grave and sudden provocation. The provisions which we propose on this subject are framed on the same principles on which we have framed the law of manslaughter, and may be defended by the same arguments by which the law of manslaughter is defended.

Hitherto we have been considering cases in which hurt has been caused voluntarily. But hurt may be caused involuntarily, yet culpably. There may have been no design to cause hurt, no expectation that hurt would be caused. Yet there may have been a want of due care not to cause hurt. For these cases of the involuntary yet culpable infliction of bodily hurt, we have provided rules which bear a close analogy to those which we have provided for cases of involuntary culpable homicide.

The provision contained in clause 329 bears, it will be seen, a close analogy to those contained in clauses 308 and 309. We have provided, under the head of assault, for cases in which an assault is committed in an attempt to cause grievous bodily hurt. But there may be most malignant and atrocious attempts to cause grievous bodily hurt without any assault. For example, Z. is directed to use a lotion for his eyes. A. substitutes for that lotion a corrosive substance, intending that it may destroy Z.'s eyesight. Again; A. makes up a letter addressed to Z., and sends it to the post-office, having placed a strongly explosive substance under the seal, intending that the explosion may seriously injure Z. These are not assaults; yet they are evidently acts which deserve severe punishment, and that punishment is provided by clause 329.

By wrongful restraint, we mean the keeping a man out of a place where he wishes to be, and has a right to be. Wrongful confinement, which is a form of wrongful restraint, is the keeping a man within limits out of which he wishes to go, and has a right to go.

The offence of wrongful restraint, when it does not amount to wrongful confinement, and when it is not accompanied with violence, or with the causing of bodily hurt, is seldom a serious offence, and we propose, therefore, to visit it with a light punishment.

The offence of wrongful confinement may be also a slight offence; but, when attended by aggravating circumstances, it may be one of the most serious that can be committed.

One aggravating circumstance is the duration of the confinement. Confinement for a quarter of an hour may sometimes be a mere frolic, which would deserve only a nominal punishment, which, indeed, might be so harmless as not to amount to an offence. (See clause 73.) But wrongful confinement continued during many days will always be a most serious offence. We have attempted to frame the law on this subject in such a manner as to give the offender a strong motive for abridging the detention of his prisoner. Another aggravating circumstance is the circumstance that the offender persists in wrongfully confining a person notwith-

standing an order issued by a competent authority for the liberation or production of that person. The mode in which these orders are to be issued will be set forth in the code of procedure. A third aggravating circumstance is the circumstance that the offender uses criminal confinement for purposes of extortion. For all these aggravated forms of wrongful confinement we have provided severe punishments.

We have also provided a separate punishment for a person who, while detaining another in wrongful confinement, omits to supply his prisoner with everything necessary to health, ease, and comfort. The effect of this provision is, that a person who wrongfully confines another will be answerable for any bodily hurt which he may cause by wrongfully omitting so to supply his prisoner.

We have found great difficulty in giving a definition of assault, and are by no means satisfied with that which we now offer. As, however, it at present appears to us to include all that we mean to include, and to exclude all that we mean to exclude, we have adopted it in spite of the objections which we feel to its harsh and quaint phraseology. We have adopted it with the less scruple, because we trust that the illustrations will render every part of it intelligible to an attentive reader.

A large proportion of the acts which we have designated as assaults will be offences falling under the heads of hurt and restraint. Thus, a stab with a knife is an offence falling under the head of hurt, and it is also an assault. The seizing a man by the collar, and thus preventing him from proceeding on his way, is unlawful restraint, and is also an assault. But there will be many assaults which it is absolutely necessary to punish, yet which cause neither bodily hurt nor unlawful restraint. A man who impertinently puts his arm round a lady's waist, who aims a severe stroke at a person with a horsewhip, who maliciously throws a stone at a person, squirts dirty water over a person, or sets a dog at a person, may cause no hurt and no restraint, yet it is evident that such acts ought to be prevented.

The ordinary punishment which we propose for assault is slight. But we propose to punish assaults which are com-

mitted in attempting murder with transportation for life, or with imprisonment for a term which may extend to life, and which cannot be less than seven years. We have also provided severe punishments for assault, when it is committed in an attempt to commit any grave offence against the person, when it is committed with the intention of dishonouring the sufferer, or when it is an outrage offered to female modesty.

The offence of kidnapping is sometimes committed by means of assault, and is sometimes attended with restraint. But this will not always be the case. A child, for example, who is decoyed from its guardians, who soon forgets its home, and who consents to remain with the kidnapper, cannot be said to have been assaulted or restrained. A labourer who has been induced to embark on board of a ship by false assurances that he shall be taken to a country where he shall have good wages, but whom the captain of the ship intends to sell for a slave, has not, as yet, been either assaulted or restrained.

The crime of kidnapping consists, according to our definition of it, in conveying a person without his consent, or the consent of some person legally authorised to consent on his behalf, or with such consent obtained by deception, out of the protection of the law, or of those whom the law has appointed his guardians.

This offence may be committed on a child by removing that child out of the keeping of its lawful guardian or guardians. On a grown man it can only be committed by conveying him beyond the limits of the Company's territories, or by receiving him on board of a ship for that purpose.

The carrying of a grown-up person by force from one place within the Company's territories to another, and the enslaving him within the Company's territories, are offences sufficiently provided for under the heads of restraint and confinement.

The enticing a grown-up person by false promises to go from one place in the Company's territories to another place also within those territories, may be a subject for a civil

action, and, under certain circumstances, for a criminal prosecution; but it does not appear to us to come properly under the head of kidnapping.

We propose to make the punishment of kidnapping peculiarly severe when it is committed with murderous intentions, as in the case of those subjects of the Company who were lately carried into the Jynteah country for purposes of human sacrifice.

We also propose to enhance the punishment of kidnapping in cases in which it is committed with the intention of inflicting grievous bodily harm on the person kidnapped, or of reducing that person to slavery, and when it is committed for purposes of rape or of unnatural lust.

We have placed under this head a provision for punishing persons who export labourers by sea from the Company's territories, in contravention of the Act recently passed by Government on that subject.

The provisions which we propose on the subject of rape do not appear to require any remark.

Clauses 361 and 362 relate to an odious class of offences respecting which it is desirable that as little as possible should be said. We leave, without comment, to the judgment of his Lordship in Council the two clauses which we have provided for these offences. We are unwilling to insert, either in the text or in the notes, anything which could give rise to public discussion on this revolting subject; as we are decidedly of opinion that the injury which would be done to the morals of the community by such discussion would far more than compensate for any benefits which might be derived from legislative measures framed with the greatest precision.

NOTE (N).

ON THE CHAPTER OF OFFENCES AGAINST PROPERTY.

THERE is such a mutual relation between the different parts of the law that those parts must all attain perfection

together. That portion, be it what it may, which is selected to be first put into the form of a code, with whatever clearness and precision it may be expressed and arranged, must necessarily partake to a considerable extent of the uncertainty and obscurity in which other portions are still left.

This observation applies with peculiar force to that important portion of the penal code which we now propose to consider. The offences defined in this chapter are made punishable on the ground that they are violations of the right of property; but the right of property is itself the creature of the law. It is evident, therefore, that if the substantive civil law touching this right be imperfect or obscure, the penal law which is auxiliary to that substantive law, and of which the object is to add a sanction to that substantive law, must partake of the imperfection or obscurity. It is impossible for us to be certain that we have made proper penal provisions for violations of civil rights till we have a complete knowledge of all civil rights; and this we cannot have while the law respecting those rights is either obscure or unsettled. As the present state of the civil law causes perplexity to the legislator in framing the penal code, so it will occasionally cause perplexity to the judges in administering that code. If it be matter of doubt what things are the subjects of a certain right, in whom that right resides, and to what that right extends, it must also be matter of doubt whether that right has or has not been violated.

For example, A., without Z.'s permission, shoots snipes on Z.'s ground, and carries them away: here, if the law of civil rights grants the property in such birds to any person who can catch them, A. has not, by killing them and carrying them away, invaded Z.'s right of property. If, on the other hand, the law of civil right declares such birds the property of the person on whose lands they are, A. has invaded Z.'s right of property. If it be matter of doubt what the state of the civil law on the subject actually is, it must also be matter of doubt whether A. has wronged Z. or not.

By the English law,[1] pigeons, while they frequent a dove-

[1] Blackstone, Book II. Chap. 25.

cote, are the property of the owner of the dove-cote. By the Roman law[1] they were not so. By the French law[2] they are his property at one time of the year, and not his property at another. Here it is evident that the taking of such a pigeon, which would in England be a violation of the right of property, would be none in a country governed by the Roman law, and that, in France, it would depend on the time of the year whether it were so, or not.

A. lends a horse to B. B. sells the horse to Z., who buys it, believing in good faith that B. has a right to sell it. A. sees the horse feeding. He mounts it and rides away with it. Here, if the law of civil rights provides that a thing sold by one who has no right to sell it shall nevertheless be the property of a *bonâ fide* purchaser, A. has invaded Z.'s right of property. If, on the other hand, A.'s right is not affected by what has passed between B. and Z., A. does not commit an infraction of Z.'s right of property. If it be doubtful whether the right to the horse be in A. or in Z., it must also be doubtful whether A. has or has not committed an infraction of Z.'s right.

A path running across a field which belongs to Z. has, during three years, been used as a public way. A., in spite of a prohibition from Z., uses it as such. Here, if by the civil law, an usage of three years is sufficient to create a right of way, A. has committed no infraction of Z.'s right. But if a prescription of more than three years, or an express grant, be necessary to create a right of way, A. has committed an infraction of Z.'s right of property.

A. discovers a mine on land occupied by him. Here, if the civil law assigns all minerals to the occupier of the land, A. violates no right of property by appropriating the minerals. But if the civil law assigns all minerals to the Government, A. violates the right of property by such appropriation.

The sea recedes, and leaves dry land in the immediate neighbourhood of Z.'s property. Z. cultivates the land. A.

[1] Columbarum fera natura est, nec ad rem pertinet, quod ex consuetudine evolare et revolare solent. — Inst. Lib. II. Tit. I.

[2] Paillet, Manuel de Droit Français.

turns cattle on the land, and destroys Z.'s crops. Here, if the civil law assigns alluvial additions to the occupier of the nearest land, A. is a wrong-doer. If it declares alluvial additions common, A. is not a wrong-doer. If it assigns alluvial additions to the Government, both A. and Z. are wrong-doers. If it be uncertain to whom the law assigns alluvial additions, it must be also uncertain who is the wrong-doer, and whether there be any wrong-doer.

The substantive civil law, in the instances which we have given, is different in different countries, and in the same country at different times. As the substantive civil law varies, the penal law, which is added as a guard to the substantive civil law, must vary also. And while many important questions of substantive civil right are undetermined, the Courts must occasionally feel doubtful whether the provisions of the penal code do or do not apply to a particular case.

It would evidently be impossible for us to determine in the penal code all the momentous questions of civil right which, in the unsettled state of Indian jurisprudence, will admit of dispute. We have, indeed, ventured to take for granted in our illustrations many things which properly belong to the domain of the civil law, because, without doing so, it would have been impossible for us to explain our meaning; but we have, to the best of our judgment, avoided questions respecting which, even in the present state of Indian jurisprudence, much doubt could exist. And in the text of the law we have, as closely as was possible, confined ourselves to what is in strictness the duty of persons engaged in framing a penal code. We have provided punishments for the infraction of rights, without determining in whom those rights vest, or to what those rights extend. We are inclined to hope that, even if the penal code should come into operation before the code of civil rights has been framed, the number of cases in which the want of a code of civil rights would occasion perplexity to the criminal tribunals will bear but a very small proportion to those in which no such perplexity will exist.

All the violations of the rights of property which we

propose to make punishable by this chapter fall under one or more of the following heads:

1. Theft.
2. Extortion.
3. Robbery.
4. The criminal misappropriation of property not in possession.
5. Criminal breach of trust.
6. The receiving of stolen property.
7. Cheating.
8. Fraudulent bankruptcy.
9. Mischief.
10. Criminal trespass.

All these offences resemble each other in this, that they cause, or have some tendency, directly or indirectly, to cause some party not to have such a dominion over property as that party is entitled by law to have.

The first great line which divides these offences may be easily traced. Some of them merely prevent or disturb the enjoyment of property by one who has a right to it. Others transfer property to one who has no right to it. Some merely cause injury to the sufferer. Others, by means of wrongful loss to the sufferer, cause wrongful gain to some other party. The latter class of offences are designated in this code as fraudulent. (See clause 16.)

Every offence against property may be fraudulently committed; but theft, extortion, robbery, the criminal misappropriation of property not in possession, criminal breach of trust, the receiving of stolen property, fraudulent bankruptcy, and cheating, must be in all cases fraudulently committed. Fraud enters into the definition of every one of these offences; but fraud does not enter into the definition of mischief or of criminal trespass.

Theft, the criminal misappropriation of property not in possession, and criminal breach of trust, are in the great majority of cases easily distinguishable. But the distinction becomes fainter and fainter as we approach the line of demarcation, and at length the offences fade imperceptibly into each other. This indistinctness may be greatly increased

by unskilful legislation; but it has its origin in the nature of things, and in the imperfection of language, and must still remain in spite of all that legislation can effect.

We believe it to be impossible to mark with precision, by any words, the circumstances which constitute possession. It is easy to put cases about which no doubt whatever exists, and about which the language of lawyers and of the multitude would be the same. It will hardly be doubted, for example, that a gentleman's watch lying on a table in his room is in his possession, though it is not in his hand, and though he may not know whether it is on his writing-table or on his dressing-table. As little will it be doubted that a watch which a gentleman lost a year ago on a journey, and which he has never heard of since, is not in his possession. It will not be doubted that when a person gives a dinner, his silver forks, while in the hands of his guests, are still in his possession; and it will be as little doubted that his silver forks are not in his possession when he has deposited them with a pawnbroker as a pledge. But between these extreme cases lie many cases in which it is difficult to pronounce, with confidence, either that property is or that it is not in a person's possession.

This difficulty, sufficiently great in itself, would, we conceive, be increased by laws which should pronounce that in a set of cases arbitrarily selected from the mass, property is in the possession of some party in whose possession, according to the understanding of all mankind, it is not. The rule of English law respecting what is called breaking bulk is an instance of what we mean. A person who has entrusted a hamper of wine to another to carry to a great distance is not in possession of that hamper of wine. But if the person in trust opens the hamper and takes out a bottle, the possession, according to the English law books, forthwith flies back to the distant owner. Mr. Livingston has laid down a rule of a similar kind, the effect of which, if we understand it rightly, is to annul the whole law of theft as he has framed it, and indeed to render it impossible that theft can be committed in Louisiana. Theft is defined by him to be "the fraudulently taking of corporal personal

property having some assignable value, and belonging to another, from his possession and without his assent." But in a subsequent clause he says that "neither the ownership nor the legal possession of property is changed by theft alone, without the circumstances required in such case by the civil code, in order to produce a change of property; therefore, stolen goods, if fraudulently taken from the thief, are stolen from the original proprietor." But if stolen by the second thief from the original proprietor, they must, according to Mr. Livingston's definition of theft, be taken by the second thief out of the possession of the original proprietor; therefore, the first thief has left them in the possession of the original proprietor; that is to say, the first thief has not committed theft.

It will not be imagined that we refer to this inconsistency in the code of Louisiana, for the purpose of throwing any censure on the distinguished author of that code. To do so would be unjust, and in us especially most ungrateful, and also most imprudent; for we are by no means confident that inconsistencies quite as remarkable will not be detected in the code which we now submit to Government. We note this error of Mr. Livingston for the purpose of showing how dangerous it is for a legislator to attempt to escape from a difficulty by giving a technical sense to an expression which he nevertheless continues to use in a popular sense.

For the purpose of preventing any difference of opinion from arising in cases likely to occur very often, we have laid down a few rules, (see clauses 17, 18, 19,) which we believe to be in accordance with the general sense of mankind as to what shall be held to constitute possession. But, in general, we leave it to the tribunals, without any direction, to determine whether particular property is at a particular time in the possession of a particular person or not.

Much uncertainty will still remain. This we cannot prevent. But we can, as it appears to us, prevent the uncertainty from producing any practical evil. The provision contained in clause 61 will, we think, obviate all the inconveniences which might arise from doubts as to the exact

limits which separate theft from misappropriation and from breach of trust.

The effect of that clause will be to prevent the judges from wasting their time and ingenuity in devising nice distinctions. If a case which is plainly theft comes before them, the offender will be punished as a thief. If a case which is plainly breach of trust comes before them, the offender will be punished as guilty of breach of trust. If they have to try a case which lies on the frontier, one of those thefts which are hardly distinguishable from breaches of trust, or one of those breaches of trust which are hardly distinguishable from theft, they will not trouble themselves with subtle distinctions, but, leaving it undetermined by which name the offence should be called, will proceed to determine what is infinitely of greater importance, what shall be the punishment.

In theft, as we have defined it, the object of the offender always is to take property which is in the possession of a person out of that person's possession; nor have we admitted a single exception to this rule. In the great majority of cases, our classification will coincide with the popular classification. But there are a few aggravated cases of what we designate as misappropriation and breach of trust, which bear such an affinity to theft that it may seem idle to distinguish them from thefts; and it certainly would be idle to distinguish such cases from thefts if the distinction were made with a view to those cases alone. But, as we have a line of distinction which we think it desirable to maintain in the great majority of cases, we think it desirable also to maintain that line in a few cases in which it may separate things which are of a very similar description.

One offence which it may be thought that we ought to have placed among thefts is the pillaging of property during the interval which elapses between the time when the possessor of the property dies, and the time when it comes into the possession of some person authorised to take charge of it. This crime, in our classification, falls under the head, not of theft, but of misappropriation of property not in possession.

The ancient Roman jurists viewed it in the same light. The property taken under such circumstances, they argued, being in no person's possession, could not be taken out of any person's possession. The taking, therefore, was not *furtum*, but belonged to a separate head, called the *crimen expilatæ hæreditatis*.[1] The French lawyers, however, long ago found out a legal fiction by means of which this offence was treated as theft in those parts of France where the Roman law was in force.[2] Mr. Livingston's definition of theft appears to us to exclude this species of offence, nor indeed do we think that it could be reached by any provision of his code. That it ought to be punished with severity under some name or other is indisputable. By what name it should be designated may admit of some dispute. If we call it theft, we speak the popular language. If we call it misappropriation of property not in possession, we avoid an anomaly, and maintain a line which, in the great majority of cases, is reasonable and convenient. On the whole, we are inclined to maintain this line.

Again, a carrier who opens a letter entrusted to his charge, and takes thence a bank note, would be commonly called a thief. It is certain that his offence is not morally distinguishable from theft. Here, however, as before, we think it expedient to maintain our general rule; and we therefore designate the offence of the carrier not as theft, but as criminal breach of trust.

The illustrations which we have appended to the provisions respecting theft, the misappropriation of property not in possession, and breach of trust, will, we hope, sufficiently explain to his Lordship in Council the reasons for most of those provisions.

It may possibly be remarked, that we have not, like Mr. Livingston, made it part of our definition of theft, that the property should be of some assignable value. We would, therefore, observe, that we have not done so only because we conceive that the law, as framed by us, obtains the same end by a different road. By one of the general exceptions which we have proposed (clause 73), it is provided, that

[1] Justinian, Dig. Lib. XLVII. Tit. 19. [2] Domat. Sup. III.

nothing shall be an offence by reason of any harm which it may cause, or be intended to cause, or be known to be likely to cause, if the whole of that harm is so slight that no person of ordinary sense and temper would complain of such harm. This provision will prevent the law of theft from being abused for the purpose of punishing those venial violations of the right of property which the common sense of mankind readily distinguishes from crimes, such as the act of a traveller who tears a twig from a hedge, of a boy who takes stones from another person's ground to throw at birds, of a servant who dips his pen in his master's ink. It does not appear to us that any further rule on this subject is necessary.

The offence of extortion is distinguished from the three offences which we have been considering by this obvious circumstance, that it is committed by the wrongful obtaining of a consent. In one single class of cases, theft and extortion are in practice confounded together so inextricably, that no judge, however sagacious, could discriminate between them. This class of cases therefore has, in all systems of jurisprudence with which we are acquainted, been treated as a perfectly distinct class; and we think that this arrangement, though somewhat anomalous, is strongly recommended by convenience. We have therefore made robbery a separate crime.

There can be no case of robbery which does not fall within the definition either of theft or of extortion; but in practice it will perpetually be matter of doubt whether a particular act of robbery was a theft or an extortion. A large proportion of robberies will be half theft, half extortion. A. seizes Z., threatens to murder him, unless he delivers all his property, and begins to pull off Z.'s ornaments. Z. in terror begs that A. will take all he has, and spare his life, assists in taking off his ornaments, and delivers them to A. Here, such ornaments as A. took without Z.'s consent are taken by theft. Those which Z. delivered up from fear of death are acquired by extortion. It is by no means improbable that Z.'s right-arm bracelet may have been obtained by theft, and left-arm bracelet by extortion; that the

rupees in Z.'s girdle may have been obtained by theft, and those in his turban by extortion. Probably in nine tenths of the robberies which are committed, something like this actually takes place, and it is probable that a few minutes later neither the robber nor the person robbed would be able to recollect in what proportions theft and extortion were mixed in the crime; nor is it at all necessary for the ends of justice that this should be ascertained. For though, in general, the consent of a sufferer is a circumstance which very materially modifies the character of the offence, and which ought, therefore, to be made known to the Courts, yet the consent which a person gives to the taking of his property by a ruffian who holds a pistol to his breast is a circumstance altogether immaterial.

His Lordship in Council will perceive that we have provided punishment of exemplary severity for that atrocious crime which is designated in the Regulations of Bengal and Madras by the name of Dacoity. This name we have thought it convenient to retain, for the purpose of denoting, not only actual gang-robbery, but the attempting to rob when such an attempt is made or aided by a gang.

The law relating to the offence of receiving stolen goods appears to require no comment.

The offence of cheating must, like that of extortion, be committed by the wrongful obtaining of a consent. The difference is, that the extortioner obtains the consent by intimidation, and a cheat by deception. There is no offence in the code with which we have found it so difficult to deal as that of cheating. It is evident that the practising of intentional deceit for purposes of gain ought sometimes to be punished. It is equally evident that it ought not always to be punished. It will hardly be disputed that a person who defrauds a banker by presenting a forged check, or who sells ornaments of paste as diamonds, may with propriety be made liable to severe penalties. On the other hand, to punish every defendant who obtains pecuniary favours by false professions of attachment to a patron; every legacy hunter who obtains a bequest by cajoling a rich testator; every debtor who moves the compassion of his creditors by

overcharged pictures of his misery; every petitioner who, in his appeals to the charitable, represents his distresses as wholly unmerited, when he knows that he has brought them on himself by intemperance and profusion, would be highly inexpedient. In fact, if all the misrepresentations and exaggerations in which men indulge for the purpose of gaining at the expense of others were made crimes, not a day would pass in which many thousands of buyers and sellers would not incur the penalties of the law. It happens hourly that an article which is worth ten rupees is affirmed by the seller to be cheap at twelve rupees and by the buyer to be dear at eight rupees. The seller comes down to eleven rupees, and declares that to be his last word; the buyer rises to nine, and says that he will go no higher; the seller falsely pretends that the article is unusually good of its kind, the buyer that it is unusually bad of its kind; the seller that the price is likely soon to rise, the buyer that it is likely soon to fall. Here we have deceptions practised for the sake of gain, yet no judicious legislator would punish these deceptions. A very large part of the ordinary business of life is conducted all over the world, and nowhere more than in India, by means of a conflict of skill, in the course of which deception to a certain extent perpetually takes place. The moralist may regret this; but the legislator sees that the result of the attempts of the buyer and seller to gain an unfair advantage over each other is that, in the vast majority of cases, articles are sold for the prices which it is desirable that they should fetch; and therefore he does not think it necessary to interfere. It is enough for him to know that all this great mass of falsehood practically produces the same effect which would be produced by truth; and that any law directed against such falsehood would in all probability be a dead letter, and would, if carried into rigorous execution, do more mischief in a month than all the lies which are told in the making of bargains throughout all the bazaars of India produce in a century.

If, then, it be admitted that many deceptions committed for the sake of gain ought to be punished, and that many such deceptions ought not to be punished, where ought the line to run?

It appears to us that the line which we have drawn is correct in theory; that it is not more inconvenient in practice than any other line must be which can be drawn while the civil law of India remains in its present state, and that it will be unexceptionable whenever the civil law of India shall be ascertained, digested, and corrected.

We propose to make it cheating to obtain property by deception in all cases where the property is fraudulently obtained; that is to say, in all cases where the intention of the person who has by deceit obtained the property was to cause a distribution of property which the law pronounces to be a wrongful distribution, and in no other case whatever. However immoral a deception may be, we do not consider it as an offence against the rights of property if its object is only to cause a distribution of property which the law recognises as rightful. A few examples will show the way in which this principle will operate.

A. intentionally deceives Z. into a belief that he is strongly attached to Z. A. thus induces Z. to make a will, by which a large legacy is left to A. Here A.'s conduct is immoral and scandalous. But still A. has a legal right on Z.'s death to receive the legacy. Even if the clearest proofs of A.'s insincerity are laid before a tribunal, even if A. in open court avows his insincerity, the will cannot, on that account, be set aside. The gain, therefore, which A. obtains under Z.'s will is not, in the legal sense of the expression, wrongful gain. He has practised deception. He has thus caused gain to himself and loss to others. But that gain is a gain to which the civil law declares him entitled, and which the civil law will assist him to recover if it be withheld from him. That loss is a loss with which the civil law declares that the losers must put up. A. therefore has not committed the offence of cheating under our definition.

But suppose that the civil law should contain, as we think that it ought to contain, a provision declaring null a will made in favour of strangers by a testator who erroneously believed his children to be dead; and suppose that A. intentionally deceives Z. into a belief that Z.'s only son has been lost at sea, and by this deception induces Z. to make a will

by which everything is left to A. Here the case will be different. The will being null, any property which A. could obtain under that will would be property which he had no legal right so to obtain, and to which another person had a legal right. The object of A. has therefore been wrongful gain to himself, attended with wrongful loss to another party. A. has, therefore, under our definition, been guilty of cheating.

Again, take the case which we before put, of a buyer and a seller. They have told each other many untruths, but none of those untruths was such as, after the article had been delivered and the price paid, would be held by a civil court to be a ground for pronouncing that either of them possessed what he had no right to possess. Though the buyer has falsely depreciated the article, yet when he takes it and pays for it, the legal right to it is transferred to him, as well as the possession. Though the seller has falsely extolled the article, yet when he receives the price and delivers the article, the legal right to the price passes with the possession. However censurable, in a moral point of view, the deceptions practised by both may have been, yet those deceptions were intended to produce a distribution of property strictly legal. Neither the buyer nor the seller, therefore, has been guilty of cheating. But if the seller has produced a sample of the article, and has falsely assured the buyer that the article corresponds to that sample, the case is different. If the article does not correspond to the sample, the buyer is entitled to have the purchase-money back. The seller has taken and kept the purchase-money without having a legal right to take or keep it, and it may be recovered from him by a legal proceeding. His gain is therefore wrongful, and is attended with wrongful loss to the buyer. He is therefore guilty of cheating under the definition.

So if the seller passes off ornaments of paste on the buyer for diamonds, the price which the seller receives is a price to which he has no right, and which the buyer may recover from him by an action. Here, therefore, the object of the seller has been wrongful gain attended with wrongful loss to the buyer. The seller is therefore guilty of cheating.

So if the buyer, intending to acquire possession of the goods without paying for them, induces the seller by deception to take a note which the buyer knows will be dishonoured, the buyer is guilty of cheating. His object is to retain in his own possession money which he is legally bound to pay to the seller. The gain which he makes by retaining the money is wrongful gain, and is attended with wrongful loss to the seller. He is, therefore, within the definition.

Whether the principle on which this part of the law is framed be a sound principle, is a question which will be best determined by examining, first, whether our definition excludes anything that ought to be included, and, secondly, whether it includes anything that ought to be excluded.

It can scarcely, we think, be contended that our definition excludes anything that ought to be included. For surely it would be unreasonable to punish, as an offence against the right of property, an act which has caused, and was intended to cause, a distribution of property which the law declares to be right, and refuses to disturb. If such an act be an offence, it must be an offence on some ground distinct from the effect which it produces on the state of property. Thus, if a person to whom a debt is due, thinking that he shall obtain payment more easily if he assumes the appearance of being in the public service, wears a badge of office which he has no right to wear when he goes to make his demand, he is guilty of the offence defined in clause 150; but if he gains only what he has a legal right to possess, if he deprives the debtor only of that which the debtor has no legal right to retain, he is not a wrong-doer as respects property, inasmuch as he has only rectified a wrong distribution of property.

Indeed, it appears to us that there is the strongest objection to punishing a man for a deception, and yet allowing him to retain what he has gained by that deception. What the civil law ought to say may be doubtful. But there can be no doubt that the civil and criminal law ought to say the same thing; that the one ought not to invite while the other repels; that the code ought not to be divided against itself. To send a person to prison for obtaining a sum of money,

and yet to suffer him to keep that sum of money, is to hold out at once motives to deter and motives to incite. Humanity requires that punishment should be the last resource, a resource only employed when no other means can be found of producing the desired effect. Penal laws clearly ought not to be made for the preventing of deception, if deception could be prevented by means of the civil code. To tempt men, therefore, to deceive by means of the civil code, and then to punish them for deceiving, is contrary to every sound principle.

We are, therefore, not apprehensive that we shall be thought to have granted impunity to any deception which ought to be punished as cheating.

But it is possible that our definition may be thought to include much that ought to be excluded. It certainly includes many acts which are not punishable by the law of England or of France. We propose to punish as guilty of cheating a man who, by false representations, obtains a loan of money, not meaning to repay it; a man who, by false representations, obtains an advance of money, not meaning to perform the service or to deliver the article for which the advance is given; a man who, by falsely pretending to have performed work for which he was hired, obtains pay to which he is not entitled.

In all these cases there is deception. In all, the deceiver's object is fraudulent. He intends in all these cases to acquire or retain wrongful possession of that to which some other person has a better claim, and which that other person is entitled to recover by law. In all these cases, therefore, the object has been wrongful gain, attended with wrongful loss. In all, therefore, there has, according to our definition, been cheating. We cannot see why such acts as these should be treated as mere civil injuries, — why they should be classed with the mere non-payment of a debt, and the mere non-performance of a contract. They are infractions of a legal right effected by deliberate dishonesty. They are more pernicious than most of the acts which will be punishable under our code. They indicate more depravity, more want of principle, more want of shame, than most of the acts which will be punishable under our code. We

punish the man who gives another an angry push. We punish the man who locks another up for a morning. We punish the man who makes a sarcastic epigram on another. We punish the man who merely threatens another with outrage. And surely the man who, by premeditated deceit, enriches himself to the wrongful loss, perhaps to the utter ruin, of another is not less deserving of punishment.

That some deceptions of this sort ought to be punished is admitted. But almost every argument which can be urged for punishing any is an argument for punishing all. The line between wilful fraudulent deception and good faith is a plain line. If there is any difficulty in applying it, that difficulty will arise, not from any defect in the line, but from the want of evidence in particular cases. But we are unable to find any reason for distinguishing one sort of fraudulent deception from another sort. The French courts apply a test which appears to us to be very objectionable. They have decided that it is not *escroquerie* to cheat by false promises, or by exciting chimerical hopes, unless the sufferer had reasons of weight for believing that the promises were sincere, and the hopes well grounded.[1] This rule seems to us to be a license for deception granted to cunning against simplicity. A weak and credulous person is more easily imposed on than a judicious and discerning person. And just so an infant is poisoned with a dose of laudanum which would hardly put a grown person to sleep; yet the poisoner is a murderer: a pregnant woman is grievously hurt by a blow which would make no impression on a boxer; yet the person who gives such a blow is punished with exemplary severity. The law in such cases inquires only whether the harm has been voluntarily caused or no. And why should the violation by deceit of the right of property be treated differently? The deceiver proportions his artifices to the mental strength of those whom he has to deal with, just as the poisoner proportions his drugs to their bodily strength; and we see no more reason for exempting the deceiver from punishment, because he has

[1] Paillet, Manuel de Droit Français. Note on clause 408 of the Penal Code.

effected his purpose by a gross fiction which could have duped only a weak person, than for exempting the poisoner from punishment because he has effected his purpose with a few drops of laudanum, which could have been fatal only to a young child.

Some persons may be startled at our proposing to punish as a cheat every man who obtains a loan by making promises of payment which he does not mean to keep. But let it be considered that a debtor, though he may have contracted his debts honestly, though it may be from absolute inability that he does not pay them, though his misfortunes may be the effect of no want of industry or caution on his part, is now actually liable to imprisonment. Surely it is unreasonable to detain in prison the man who, by mere misfortune, has involuntarily violated the rights of property, and to leave unpunished the man who has voluntarily, and by wilful deceit, attacked those rights, if only he is lucky enough to have money to satisfy the demands on him.

For example: A. and B. both borrow money from Z. A. obtains it by boasting falsely of his great means, of the large remittances which he looks for from England, of his expectations from rich relations, of the promises of preferment which he has received from the Government. Having obtained it, he secretly embarks on board of a ship, intending to abscond without repaying what he has borrowed. B., on the other hand, has obtained a loan without the smallest misrepresentation, and fully purposes to repay it. The failure of an agency house in which all his funds were placed renders it impossible for him to meet his engagements. Can it be doubted which of these two debtors ought rather to be sent to prison? Can it be doubted that A. is a proper subject of punishment, and that B. is not so? Yet at present A., if he is arrested before the ship sails, and lays down the money, enjoys entire impunity, while B. may pass years in a gaol. It would be improper for us here to discuss at length the question of imprisonment for debt. But it seems clear that whether it be or be not proper that a debtor, as such, should be imprisoned, a distinction ought to be made between the honest and dishonest debtor. We are inclined to

believe that the indiscriminate imprisonment of all debtors would be found to be unnecessary if this distinction were made. But while they are all put on the same footing, the law must be formed upon a rough calculation of the chances of dishonesty. All must be treated worse than honest debtors ought to be treated, because none are treated so severely as dishonest debtors ought to be treated. A respectable man must be imprisoned for a storm, a bad season, or a fire, because his dishonest neighbour is not liable to criminal proceedings for cheating. We are satisfied that the only way to get rid of imprisonment for debt, as debt, is to extend the penal law on the subject of cheating in a manner similar to that in which we propose to extend it.

The provisions which we have framed on the subject of fraudulent bankruptcy are necessarily imperfect, and must remain so, until the whole of that important part of the law has undergone an entire revision.

The provisions which we propose on the subject of mischief do not appear to us to require any explanation.

We have given the name of trespass to every usurpation, however slight, of dominion over property. We do not propose to make trespass, as such, an offence, except when it is committed in order to the commission of some offence injurious to some person interested in the property on which the trespass is committed, or for the purpose of causing annoyance to such a person. Even then we propose to visit it with a light punishment, unless it be attended with aggravating circumstances.

These aggravating circumstances are of two sorts. Criminal trespass may be aggravated by the way in which it is committed. It may also be aggravated by the end for which it is committed.

There is no sort of property which it is so desirable to guard against unlawful intrusion as the habitations in which men reside, and the buildings in which they keep their goods. The offence of trespassing on these places we designate as house-trespass, and we treat it as an aggravated form of criminal trespass.

House-trespass, again, may be aggravated by being com-

mitted in a surreptitious or in a violent manner. The former aggravated form of house-trespass we designate as lurking house-trespass; the latter we designate as house-breaking. Again, house-trespass, in every form, may be aggravated by the time at which it is committed. Trespass of this sort has, for obvious reasons, always been considered as a more serious offence when committed by night than when committed by day. Thus we have four aggravated forms of that sort of criminal trespass which we designate as house-trespass, lurking house-trespass, house-breaking, lurking house-trespass by night, and house-breaking by night.

These are aggravations arising from the way in which the criminal trespass is committed. But criminal trespass may also be aggravated by the end for which it is committed. It may be committed for a frolic. It may be committed in order to a murder. It may also often happen that a criminal trespass which is venial, as respects the mode, may be of the greatest enormity as respects the end; and that a criminal trespass committed in the most reprehensible mode, may be committed for an end of no great atrocity. Thus A. may commit house-breaking by night for the purpose of playing some idle trick on the inmates of a dwelling. B. may commit simple criminal trespass by merely entering another's field for the purpose of murder or gang-robbery. Here A. commits trespass in the worst way. B. commits trespass with the worst object. In our provisions we have endeavoured to combine the aggravating circumstances in such a way that each may have its due effect in settling the punishment.

NOTE (O).

ON THE CHAPTER OF THE ILLEGAL PURSUIT OF LEGAL RIGHTS.

This chapter is intended to prevent the enforcing of just claims by means which are so liable to be abused that, even when used for an honest end, they ought not to be tolerated.

A creditor, for example, who has repeatedly in vain urged his debtor to pay him, finds that he has no chance of recovering his money without a troublesome and expensive lawsuit. He accordingly seizes on property belonging to the debtor, sells it, keeps only just as much as will satisfy the debt, and sends back the surplus to the debtor. This act is distinguished from theft by one of the broadest lines of demarcation which can be found in the code. It is not a fraudulent act. It is intended to correct a wrongful distribution of property, to do what the courts of law, if recourse were had to them, would order to be done. Public feeling would be shocked if such a creditor were called by the ignominious name of a thief.

At the same time, it cannot be doubted that it would be most dangerous to allow men to pronounce judgment, however honestly, in their own favour, and to proceed to take property in execution for the purpose of satisfying that judgment. A specific thing, indeed, which a man has a right to possess, it is no offence in him to take wherever he finds it. He may commit other offences in order to take it. But the mere taking is no crime at all. If Z. has borrowed A.'s horse, and illegally refuses to return it, it is no offence at all in A. to take the horse if he sees it feeding by the roadside. If A. enters Z.'s stable in order to take it, he may commit house-trespass, but he commits no theft. If A. knocks Z. down in order to take it, he may be guilty of assault, or of voluntarily causing bodily hurt, but he commits no robbery. This license, as it appears to us, must be confined to cases in which specific things are taken. In such cases the chance of abuse is very small. But where one thing is due, and another is taken, where a man seizes on another's furniture in satisfaction of a promissory note, or drives away another's cattle by way of paying himself for a suit of clothes, the case is very different. Honest men so often think themselves entitled to more than a court of justice would award to them, that it will be difficult to say, in cases in which the taker really has a plausible claim, and in which the value of what has been taken is not out of all proportion to the value of what is claimed, that the taker has acted dis-

honestly. In such cases, therefore, we think it absolutely necessary to provide a punishment for the illegal pursuit of legal rights. We observe that the French courts have decided that the taking of property by a creditor in good faith, for the purpose of paying himself, is not theft; and this decision seems to us, as we have said, to be well grounded. But it does not appear to us that such an act is punishable under any clause of the French code; and this we consider as a serious omission.

NOTE (P).

ON THE CHAPTER OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

We agree with the great body of jurists in thinking that in general a mere breach of contract ought not to be an offence, but only to be the subject of a civil action.

To this general rule there are, however, some exceptions. Some breaches of contract are very likely to cause evil such as no damages or only very high damages can repair, and are also very likely to be committed by persons from whom it is exceedingly improbable that any damages can be obtained. Such breaches of contract are, we conceive, proper subjects for penal legislation.

In England it would be unnecessary to provide a punishment for a stage-coachman who should, however maliciously or dishonestly, drive on, leaving behind a passenger whom he is bound to carry. The evil inflicted is seldom very serious. The country is everywhere well inhabited. The roads are secure. The means of conveyance can easily be obtained, and damages sufficient to compensate for any inconvenience or expense which may have been suffered can easily be recovered from the coach proprietors. But the mode of performing journeys and the state of society in this country are widely different. It is often necessary for travellers of the upper classes, even for English ladies, ignorant perhaps

of the native languages, and with young children at their breasts, to perform journeys of many miles over uninhabited wastes, and through jungles in which it is dangerous to linger for a moment, in palanquins borne by persons of the lowest class. If, as sometimes happens, these persons should, in a solitary place, set down the palanquin and run away, it is difficult to conceive a more distressing situation than that in which their employer would be left. None but very high damages would be any reparation for such a wrong. But the class of people by whom alone such a wrong is at all likely to be committed can pay no damages. The whole property of all the delinquents would probably not cover the expense of prosecuting them civilly. It therefore appears to us that breaches of contract of this description may, with strict propriety, be treated as crimes.

The law which we have framed on this subject applies, it will be perceived, only to cases in which the contract with the bearers is lawful. The traveller, therefore, who resorts to the highly culpable, though we fear too common, practice of unlawfully compelling persons against their will to carry his palanquin or his baggage will not be protected by it. If they quit him, it is what they have a legal right to do, nor will they be punishable, whatever may be the consequence of their desertion.

Another species of contract which ought, we conceive, to be guarded by a penal sanction is that by which seamen are bound to their employers. The insubordination of seamen during a voyage often produces fatal consequences. Their desertion in port may cause evils such as very large damages only could repair. But they are utterly unable to pay any damages for which it would be worth while to sue. If a ship in the Hooghly, at a critical time of the year, is compelled by the desertion of some of the crew to put off its voyage for a fortnight, it would be mere mockery to tell the owners that they may sue the runaways for damages in the Supreme Court.

We also think that persons who contract to take care of infants, of the sick, and of the helpless, lay themselves under an obligation of a very peculiar kind, and may with pro-

priety be punished if they omit to discharge their duty. The misery and distress which their neglect may cause is such as the largest pecuniary payment would not repair. They generally come from the lower ranks of life, and would be unable to pay anything. We therefore propose to add to this class of contracts the sanction of the penal law.

Here we are inclined to stop. We have indeed been urged to go further, and to punish as a criminal every menial servant who, before the expiration of the term for which he is hired, quits his employer. But it does not appear to us that in the existing state of the market for that description of labour in India, good masters are in much danger of being voluntarily deserted by their menial servants, or that the loss or inconvenience occasioned by the sudden departure of a cook, a groom, a hurkaru or a khidmutgar, would often be of a very serious description. We are greatly apprehensive that by making these petty breaches of contracts offences, we should give no protection to good masters, but means of oppression to bad ones.

NOTE (Q).

ON THE CHAPTER OF OFFENCES RELATING TO MARRIAGE.

As this is a part of the law in which the English inhabitants of India are peculiarly interested, and which we have framed on principles widely different from those in which the English law on the same subject is framed, we think it necessary to offer some explanations.

The act which in the English law is designated as bigamy is always an immoral act. But it may be one of the most serious crimes that can be committed. It may be attended with circumstances which may excuse though they cannot justify it.

The married man who, by passing himself off as unmarried, induces a modest woman to become, as she thinks, his wife, but in reality his concubine, and the mother of an ille-

gitimate issue, is guilty of one of the most cruel frauds that can be conceived. Such a man we would punish with exemplary severity.

But suppose that a person arrives from England, and pays attentions to one of his countrywomen at Calcutta. She refuses to listen to him on any other terms than those of marriage. He candidly owns that he is already married. She still presses him to go through the ceremony with her. She represents to him that if they live together without being married she shall be an outcast from society, that nobody in India knows that he has a wife, that he may very likely never fall in with his wife again, and that she is ready to take the risk. The lover accordingly agrees to go through the forms of marriage.

It cannot be disputed that there is an immense difference between these two cases. Indeed, in the second case the man can hardly be said to have injured any individual in such a manner as calls for legal punishment. For what individual has he injured? His second wife? He has acted by her consent, and at her solicitation. His first wife? He has certainly been unfaithful to his first wife. But we have no punishment for mere conjugal infidelity. He will often have injured his first wife no more than he would have done by keeping a mistress, calling that mistress by his own name, introducing her into every society as his wife, and procuring for her the consideration of a wife from all his acquaintance. The legal rights of the first wife and of her children remain unaltered. She is the wife; the second is the concubine. But suppose that the first wife has herself left her husband, and is living in adultery with another man. No individual can then be said to be injured by this second invalid marriage. The only party injured is society, which has undoubtedly a deep interest in the sacredness of the matrimonial contract, and which may therefore be justified in punishing those who go through the forms of that contract for the purpose of imposing on the public.

The law of England on the subject of bigamy appears to us to be in some cases too severe, and in others too lenient. It seems to bear a close analogy to the law of perjury. The

English law on these two subjects has been framed less for the purpose of preventing people from injuring each other, than for the purpose of preventing the profanation of a religious ceremony. It therefore makes no distinction between perjury which is intended to destroy the life of the innocent, and perjury which is intended to save the innocent; between bigamy which produces the most frightful suffering to individuals, and bigamy which produces no suffering to individuals at all. We have proceeded on a different principle. While we admit that the profanation of a ceremony so important to society as that of marriage is a great evil, we cannot but think that evil immensely aggravated when the profanation is made the means of tricking an innocent woman into the most miserable of all situations. We have therefore proposed that a man who deceives a woman into believing herself his lawful wife when he knows that she is not so, and induces her, under that persuasion, to cohabit with him, should be punished with great severity.

There are reasons similar, but not exactly the same, for punishing a woman who deceives a man into contracting with her a marriage which she knows to be invalid. For this offence we propose a punishment which, for reasons too obvious to require explanation, is much less severe than that which we have provided for a similar deception practised by a man on a woman.

We also propose to punish every person who, with what we have defined as a fradulent intention, goes through the forms of a marriage which he knows to be invalid.

We do not at present propose any law for punishing a person who, without practising any deception, or intending any fraud, goes through the forms of a marriage which he knows to be invalid. The difficulty of framing such a law in this country is great. To make all classes subject to one law would, evidently, be impossible. If the law be made dependent on the race, birthplace, or religion of the offender, endless perplexity would arise. Races are mixed; religion may be changed or dissembled. An East Indian, half English, half Asiatic by blood, may call himself a Mahomedan or a Hindoo; and there exists no test by which he can be

convicted of deception. We by no means intend to express an opinion that these difficulties may not be got over. But we are satisfied that this part of the penal law cannot be brought to perfection till the law of marriage and divorce has been thoroughly revised.

We leave it to his Lordship in Council to consider whether, during the interval which must elapse before the necessary inquiry can be made, it might not be, on the whole, better to retain the existing law applicable to Christians in India, objectionable as that law is, than to allow absolute impunity to bigamy.

We considered whether it would be advisable to provide a punishment for adultery, and in order to enable ourselves to come to a right conclusion on the subject, we collected facts and opinions from all the three presidencies. The opinions differ widely. But as to the facts, there is a remarkable agreement.

The following positions we consider as fully established: first, that the existing laws for the punishment of adultery are altogether inefficacious for the purpose of preventing injured husbands of the higher classes from taking the law into their own hands; secondly, that scarcely any native of the higher classes ever has recourse to the courts of law in a case of adultery for redress against either his wife or her gallant; thirdly, that the husbands who have recourse in cases of adultery to the courts of law are generally poor men whose wives have run away; that these husbands seldom have any delicate feelings about the intrigue, but think themselves injured by the elopement; that they consider their wives as useful members of their small households; that they generally complain, not of the wound given to their affections, not of the stain on their honour, but of the loss of a menial whom they cannot easily replace, and that, generally, their principal object is that the woman may be sent back. The fiction by which seduction is made the subject of an action in the English Courts is, it seems, the real gist of most proceedings for adultery in the Mofussil. The essence of the injury is considered by the sufferer as lying in the "per quod servitium amisit." Where the

complainant does not ask to have his wife again, he generally demands to be reimbursed for the expenses of his marriage.

These things being established, it seems to us that no advantage is to be expected from providing a punishment for adultery. The population seems to be divided into two classes — those whom neither the existing punishment, nor any punishment which we should feel ourselves justified in proposing, will satisfy, and those who consider the injury produced by adultery as one for which a pecuniary compensation will sufficiently atone. Those whose feelings of honour are painfully affected by the infidelity of their wives will not apply to the tribunals at all. Those whose feelings are less delicate will be satisfied by a payment of money. Under such circumstances, we think it best to treat adultery merely as a civil injury.

Some who admit that the penal law now existing on this subject is in practice of little or no use, yet think that the code ought to contain a provision against adultery. They think that such a provision, though inefficacious for the repressing of vice, would be creditable to the Indian Government, and that, by omitting such a provision, we should give a sanction to immorality. They say, and we believe with truth, that the higher class of natives consider the existing penal law on the subject as far too lenient, and are unable to understand on what principle adultery is treated with more tenderness than forgery or perjury.

These arguments have not satisfied us that adultery ought to be made punishable by law. We cannot admit that a penal code is by any means to be considered as a body of ethics, that the legislature ought to punish acts merely because those acts are immoral, or that, because an act is not punished at all, it follows that the legislature considers that act as innocent. Many things which are not punishable are morally worse than many things which are punishable. The man who treats a generous benefactor with gross ingratitude and insolence deserves more severe reprehension than the man who aims a blow in a passion, or breaks a window in a frolic. Yet we have punishments for assault and mis-

chief, and none for ingratitude. The rich man who refuses a mouthful of rice to save a fellow-creature from death may be a far worse man than the starving wretch who snatches and devours the rice. Yet we punish the latter for theft, and we do not punish the former for hard-heartedness.

That some classes of the natives of India disapprove of the lenity with which adultery is now punished we fully believe, but this, in our opinion, is a strong argument against punishing adultery at all. There are only two courses which, in our opinion, can properly be followed with respect to this and other great immoralities. They ought to be punished very severely, or they ought not to be punished at all. The circumstance that they are left altogether unpunished does not prove that the legislature does not regard them with disapprobation. But when they are made punishable, the degree of severity of the punishment will always be considered as indicating the degree of disapprobation with which the legislature regards them. We have no doubt that the natives would be far less shocked by the total silence of the penal law touching adultery than by seeing an adulterer sent to prison for a few months while a coiner is imprisoned for fourteen years.

An example will illustrate our meaning. We have determined not to make it penal in a wealthy man to let a fellow-creature, whose life he could save by disbursing a few pice, die at his feet of hunger. No rational person, we are convinced, will suppose, because we have framed the law thus, that we do not hold such inhumanity in detestation. But if we had proposed to punish such inhumanity with a fine not exceeding fifty rupees, we should have offered a gross outrage to the feelings of mankind. That we do not think a certain act a proper subject for penal legislation, does not prove that we do not think that act a great crime. But that, thinking it a proper subject for penal legislation, we propose to visit it with a slight penalty, does seem to indicate that we do not think it a great crime.

Nobody proposes that adultery should be punished with a severity at all proportioned to the misery which it produces in cases where there is strong affection and a quick sensibil-

ity to family honour. We apprehend that among the higher classes in this country nothing short of death would be considered as an expiation for such a wrong. In such a state of society we think it far better that the law should inflict no punishment than that it should inflict a punishment which would be regarded as absurdly and immorally lenient.

There is yet another consideration which we cannot wholly leave out of sight. Though we well know that the dearest interests of the human race are closely connected with the chastity of women and the sacredness of the nuptial contract, we cannot but feel that there are some peculiarities in the state of society in this country which may well lead a humane man to pause before he determines to punish the infidelity of wives. The condition of the women of this country is, unhappily, very different from that of the women of England and France. They are married while still children. They are often neglected for other wives while still young. They share the attentions of a husband with several rivals. To make laws for punishing the inconstancy of the wife, while the law admits the privilege of the husband to fill his zenana with women, is a course which we are most reluctant to adopt. We are not so visionary as to think of attacking, by law, an evil so deeply rooted in the manners of the people of this country as polygamy. We leave it to the slow, but we trust the certain, operation of education and of time. But while it exists, while it continues to produce its never-failing effects on the happiness and respectability of women, we are not inclined to throw into a scale, already too much depressed, the additional weight of the penal law. We have given the reasons which lead us to believe that any enactment on this subject would be nugatory. And we are inclined to think that if not nugatory it would be oppressive. It would strengthen hands already too strong. It would weaken a class already too weak. It will be time enough to guard the matrimonial contract by penal sanctions when that contract becomes just, reasonable, and mutually beneficial.

NOTE (R).

ON THE CHAPTER OF DEFAMATION.

The essence of the offence of defamation consists in its tendency to cause that description of pain which is felt by a person who knows himself to be the object of the unfavourable sentiments of his fellow-creatures, and those inconveniences to which a person who is the object of such unfavourable sentiments is exposed.

According to the theory of the criminal law of England, the essence of the crime of private libel consists in its tendency to provoke breach of the peace; and, though this doctrine has not, in practice, been followed out to all the startling consequences to which it would legitimately lead, it has not failed to produce considerable inconvenience.

It appears to us evident that between the offence of defaming and the offence of provoking to a breach of the peace, there is a distinction as broad as that which separates theft and murder. Defamatory imputations of the worst kind may have no tendency to cause acts of violence. Words which convey no discreditable imputation whatever may have that tendency in the highest degree. Even in cases where defamation has a tendency to cause acts of violence, the heinousness of the defamation, considered as defamation, is by no means proportioned to its tendency to cause such acts; nay, circumstances which are great aggravations of the offence, considered as defamation, may be great mitigations of the same offence, considered as a provocation to a breach of the peace. A scurrilous satire against a friendless woman, published by a person who carefully conceals his name, would be defamation in one of its most odious forms. But it would be only by a legal fiction that the satirist could be said to provoke a breach of the peace. On the other hand, an imputation on the courage of an officer contained in a private letter, meant to be seen only by that officer and two or three other persons, might, considered as defamation, be a very venial offence.

But such an imputation would have an obvious tendency to cause a serious breach of the peace.

On these grounds we have determined to propose that defamation shall be made an offence, without any reference to its tendency to cause acts of illegal violence.

We considered whether it would be advisable to make a distinction between the different modes in which defamatory imputations may be conveyed; and we came to the conclusion that it would not be advisable to make any such distinction.

By the English law, defamation is a crime only when it is committed by writing, printing, engraving, or some similar process. Spoken words reflecting on private character, however atrocious may be the imputations which those words convey, however numerous may be the assembly before which such words are uttered, furnish ground only for a civil action. Herein the English law is scarcely consistent with itself. For if defamation be punished on account of its tendency to cause breach of the peace, spoken defamation ought to be punished even more severely than written defamation, as having that tendency in a higher degree. A person who reads in a pamphlet a calumnious reflection on himself, or on some one for whom he is interested, is less likely to take a violent revenge than a person who hears the same calumnious reflection uttered. Public men who have, by long habit, become callous to slander and abuse in a printed form, often show acute sensibility to imputations thrown on them to their faces. Indeed, defamatory words spoken in the presence of the person who is the object of them, necessarily have more of the character of a personal affront, and are, therefore, more likely to cause breach of the peace than any printed libel.

The distinction which the English criminal law makes between written and spoken defamation is generally defended on the ground that written defamation is likely to be more widely spread and to be more permanent than spoken defamation. These considerations do not appear to us to be entitled to much weight. In the first place, it is by no means necessarily the fact that written defamation is more

extensively circulated than spoken defamation. Written defamation may be contained in a letter intended for a single eye. Spoken defamation may be heard by an assembly of many thousands. It seems to us most unreasonable that it should be penal to say, in a private letter, that a man is dissipated, and not penal to stand up at the town-hall, and there, before the whole society of Calcutta, falsely to accuse him of poisoning his father.

In the second place, it is not necessarily the fact that the harm caused by defamation is proportioned to the extent to which the defamation is circulated. Some slanders — and those slanders of a most malignant kind — can produce harm only while confined to a very small circle, and would be at once refuted if they were published. A malignant whisper addressed to a single hearer, and meant to go no further, may indicate greater depravity, may cause more intense misery, and may deserve more severe punishment than a satire which has run through twenty editions. A person, for example, who, in private conversation, should infuse into the mind of a husband suspicions of the fidelity of a virtuous wife, might be a defamer of a far worse description than one who should insert the lady's name in a printed lampoon.

It must be allowed that, in general, a printed story is likely to live longer than a story which is only circulated in conversation. But, on the other hand, it is far easier for a calumniated person to clear his character, either by argument or by legal proceedings, from a charge fixed in a printed form, than from a shifting rumour, which nobody repeats exactly as he heard it. In general, we believe, a man would rather see in a newspaper a story discreditable to him which he had the means of refuting, than know that such a story, though not published, was current in society.

On the whole, we are so far from being able to discover any reason for exempting any mode of defamation from all punishment, that we have not even thought it right to provide different degrees of punishment for different modes of defamation. We do not conceive that on this subject any general rule can, with propriety, be laid down. We have, therefore, thought it best to leave to the courts the business

of apportioning punishment, with due regard to the circumstances of every case.

We have thought it necessary, under the peculiar circumstances of this country, to lay down for the guidance of the courts a rule which, if we were legislating for a population among whom there was an uniform standard of morality and honour, might appear superfluous. India is inhabited by races which differ widely from each other in manners, tastes, and religious opinions. Practices which are regarded as innocent by one large portion of society, excite the horror of another large portion. A Hindoo would be driven to despair if he knew that he was believed by persons of his own race to have done something which a Christian or a Mussulman would consider as indifferent or as laudable. Where such diversities of opinion exist, that part of the law which is intended to prevent pain arising from opinion ought to be sufficiently flexible to suit those diversities. We have, therefore, directed the judge not to decide the question whether an imputation be or be not defamatory, by reference to any particular standard, however correct, of honour, of morality, or of taste; but to extend an impartial protection to opinions which he regards as erroneous, and to feelings with which he has no sympathy.

There are nine excepted cases (see clauses from 470 to 478 inclusive) in which we propose to tolerate imputations prejudicial to character.

The exception which stands first in order will probably be thought by many persons objectionable. It is opposed to the rules of the English criminal law. It goes, we fear, beyond what even the boldest reformers of Englisn law have proposed. It is at variance with the provisions of the French code, and with the sentiments of the most distinguished French jurists. It is at variance also with the provisions of the code of Louisiana. It is, therefore, with some diffidence that we venture to lay before the Governor-general in Council the results of a long and anxious consideration of this question.

The question is, whether the truth of an imputation prejudicial to character should, in all cases, exempt the author of

that imputation from punishment as a defamer. We conceive that it ought to exempt him.

It will hardly be disputed, even by those who dissent from us on this point, that there is a marked distinction between true and false imputations, as respects both the degree of malignity which they indicate, and the degree of mischief which they produce. The accusing a man of what he has not done implies, in a vast majority of cases, greater depravity than the accusing him of what he has done. The pain which a false imputation gives to the person who is the object of it is clear, uncompensated evil. There is no set-off whatever. The pain which a true imputation gives to the person who is the object of it is in itself an evil, and, therefore, ought not to be wantonly inflicted. But there is often some counterbalancing good. A true imputation may produce a wholesome effect on the person who has, by his misconduct, exposed himself to it. It may deter others from imitating his example. It may set them on their guard against his bad designs.

Not only do true imputations generally produce some good to counterbalance the evil caused by them, but in many cases this counterbalancing good appears to us greatly to preponderate. However skilfully penal laws may be framed, however vigorously they may be carried into execution, many bad practices will always be out of reach of the tribunals. The state of society would be deplorable if public opinion did not repress much that legislators are compelled to tolerate. The wisest legislators have felt this, and have assigned it as a reason for not visiting certain acts with legal punishment, that those acts will be sufficiently punished by general disapprobation. It seems inconsistent and unwise to rely on the public opinion in certain cases as a valuable auxiliary to the law, and at the same time to treat the expression of that opinion in those very cases as a crime.

It is easy to put cases about which there could scarcely be any difference of opinion. A person who has been guilty of gross acts of swindling at the Cape comes to Calcutta, and proposes to set up a house of agency. A person who has been forced to fly from England on account

of his infamous vices repairs to India, opens a school, and exerts himself to obtain pupils. A captain of a ship induces natives to emigrate, by promising to convey them to a country where they will have large wages and little work. He takes them to a foreign colony, where they are treated like slaves, and returns to India to hold out similar temptations to others. A man introduces a common prostitute as his wife into the society of all the most respectable ladies of the presidency. A person in a high station is in the habit of encouraging ruinous play among young servants of the Company. In all these cases, and in many others which might be named, we conceive that a writer who publishes the truth renders a great service to the public, and cannot, without a violation of every sound principle, be treated as a criminal.

There are undoubtedly many cases in which the spreading of true reports, prejudicial to the character of an individual, would hurt the feelings of that individual, without producing compensating advantage in any other quarter. The proclaiming to the world that a man keeps a mistress, that he is too much addicted to wine, that he is penurious in his housekeeping, that he is slovenly in his person ; the raking up of ridiculous and degrading stories about the youthful indiscretions of a man who has long lived irreproachably as a husband and a father, and who has attained some post which requires gravity and even sanctity of character, can seldom or never produce any good to the public sufficient to compensate for the pain given to the person attacked, and to those who are connected with him. Yet we greatly doubt whether, where the imputations are true, it be advisable to inflict on the propagators of such miserable scandal any legal punishment, in addition to that general aversion and contempt with which their calling and their persons are everywhere regarded. Even in such cases, the question whether the imputation be true or false is not an unimportant question. Those who would not allow truth to be in such cases a justification, would admit that it ought generally to be a mitigating circumstance. Indeed, we find it impossible to imagine any case in which we should punish a man who told

no more than the truth respecting another, as severely as if what he told had been a lie invented to blast the reputation of that other.

These two propositions, then, we consider as established: — first, that in some cases of prosecution for defamation, the truth of the imputations alleged to be defamatory ought to be a justification; secondly, that in the vast majority of such cases, if not in all, truth, if it be not a justification, ought to be a mitigation.

From these two propositions a third proposition necessarily follows: — that in all cases of prosecution for defamation, if the defendant avers that the imputations complained of as defamatory are true, the court ought to go into the question of the truth of those imputations.

This ought to be done, not only in justice to the public and to the defendant, but in justice to the innocent complainant. It must not be forgotten, that one of the most important ends which a person proposes to himself in prosecuting a slanderer is the refuting of the slander. He generally considers the punishment of the offender as a secondary object; and, when there is no circumstance of peculiar aggravation in the case, is often willing to stay proceedings after obtaining a retractation and apology. To clear his fame is his first object. It is, we conceive, an object for the attaining of which he is entitled to the assistance of the law. But it is an object which cannot be attained unless the courts go into the question of truth.

The effect of a rule excluding evidence of the truth is to put on a par descriptions of persons between whom it is desirable to make the widest distinction. The public-spirited man who warns the mercantile community against a notorious cheat, or advises families not to admit into their intimacy a practised seducer of innocence, is placed on the same footing with the slanderer who invents the most infamous falsehoods against persons of the purest character. On the other hand, a man who has, without the slightest reason, been held up to the world as a seducer or a swindler, is placed in exactly the same situation with one who well deserves those disgraceful names. So defective is the investigation that it

leaves a suspicion lying on the most innocent, and no more than a suspicion lying on the most guilty.

We therefore think that in all cases of prosecution for defamation, the courts ought to allow the question of truth to be gone into. But if in all cases the courts allow the question of truth to be gone into, we are satisfied that no respectable person will venture to institute a prosecution for defamation in a case in which he knows that the truth of the defamatory matter is likely to be proved. He will feel that, by prosecuting, he should injure his own character far more deeply than any libeller can do. However disagreeable it may be to his feelings that a discreditable story concerning him should be repeated in society, and should furnish paragraphs for the newspapers, it must be much more disagreeable that such a story should be proved in open court by legal evidence. By prosecuting, he turns what was at most a strong suspicion into an absolute certainty. While he forbears to prosecute, many people will probably disbelieve the scandalous report; many will doubt about its truth. The mere circumstance that he abstains from prosecuting is no proof of guilt. It is notorious that slanders are often passed by with silent contempt by those who are the objects of them. Indeed, in a country where the press is free, a man whose station exposes him to remark would have nothing to do but to prosecute, if he should institute legal proceedings every time that he might be calumniated.

It seems to us, therefore, certain, that a man on whose character imputations have been thrown, which can be proved to be true, will, if he possess ordinary prudence and ordinary sensibility, abstain from having recourse to a court of law, which will fully investigate the truth of those imputations. By having recourse to a court of law, he would show that he belonged to a class of persons who are the last that a legislator would wish to favour, to that class of persons in whom the sense of shame is weak, and the malicious passions strong, and who are content to incur dishonour for the chance of obtaining revenge.

Being, therefore, of opinion, that in all cases of prosecution

for defamation, evidence of the truth of the imputations alleged to be defamatory ought to be received, and being of opinion that practically there is no difference between receiving evidence of truth and allowing truth to be a justification, we have thought it advisable to provide, expressly, that truth shall always be a justification. By framing the law thus, we have not in the smallest degree diminished the real security of private character, or the real risk of detraction. We have merely made the language of the code correspond with its virtual operation.

As we are satisfied that no practical mischief will be produced by the rule which we have proposed, we think that its perfect simplicity and certainty are strong reasons for adopting it.

If it be not adopted, it will be necessary to take one of two courses; either to provide that truth shall in no case be a justification, or to provide that truth shall be a justification in some cases and not in others. To the former course we feel, for reasons which we have already assigned, insurmountable objections. The effect of such a state of the law would be, that eminent public services would often be treated as crimes. If the latter course be taken, we are convinced that it would be found impossible to draw any line approaching to accuracy. We are convinced that it would be necessary to leave to the judges an almost boundless discretion, a discretion which no two judges would exercise in the same manner.

It has been suggested to us, from quarters entitled to great respect, that it would be a preferable course to admit in every case the truth of matter alleged to be defamatory to be given in evidence, for the purpose of proving that the accused person had not acted maliciously; but not to allow the proof of the truth to be a justification if it should appear that reputation had been maliciously assailed.

If a provision of this kind were adopted, it would, for the reasons which we have already given, be in practice nugatory. For no respectable person would prosecute the author of an imputation which could be proved to be true. And we take it for granted that the law of procedure will

not be framed in so cruel and unreasonable a manner as to permit a prosecution for defamation to be instituted in opposition to the wishes of the person defamed. Such a power of prosecution would scarcely ever be used by a friend of the person defamed; it would never be used by a judicious friend; and it would be a most formidable weapon in the hands of a malignant enemy.

But if the provision which we are considering were not certain to be in practice nugatory, we should think it a highly objectionable provision. When an act is of such a description that it would be better that it should not be done, it is quite proper to look at the motives and intentions of the doer, for the purpose of deciding whether he shall be punished or not. But when an act which is really useful to society, an act of a sort which it is desirable to encourage, has been done, it is absurd to inquire into the motives of the doer, for the purpose of punishing him if it shall appear that his motives were bad.

If A. kills Z. it is proper to inquire whether the killing was malicious; for killing is *primâ facie* a bad act. But if A. saves Z.'s life, no tribunal inquires whether A. did so from good feeling, or from malice to some person who was bound to pay Z. an annuity; for it is better that human life should be saved from malice than not at all. If A. sets on fire a quantity of cotton belonging to Z., it is proper to inquire whether A. acted maliciously; for the destruction of valuable property by fire is *primâ facie* a bad act. But if Z.'s cotton is burning, and A. puts it out, no tribunal inquires whether A. did so from good feeling or from malice to some other dealer in cotton, who, if Z.'s stock had been destroyed, would have been a great gainer; for the saving of valuable property from destruction is an act which it is desirable to encourage, and it is better that such property should be saved from bad motives than that it should be suffered to perish. Since, then, no act ought to be made punishable on account of malicious intention, unless it be in itself an act of a kind which it is desirable to prevent, it follows that malice is not a test which can with propriety be used for the purpose of determining what true imputa

tions on character ought to be punished, and what true imputations on character ought not to be punished; for the throwing of true imputations on character is not *primâ facie* a pernicious act. It may, indeed, be a very pernicious act. But we are not prepared to say that in the majority of instances it is so. We are sure that it is often a great public service; and we are sure that it may be very pernicious when it is not done from malice, and that it may be a great public service when it is done from malice. It is perfectly conceivable that a person might, from no malicious feeling, but from an honest though austere and injudicious zeal for what he might consider as the interests of religion and morality, drag before the public frailties which it would be far better to leave in obscurity. It is also perfectly conceivable that a person who has been concerned in some odious league of villainy and has quarrelled with his accomplices, may, from vindictive feelings, publish the history of their proceedings, and may by doing so render a great service to society. Suppose that a knot of sharpers lives by seducing young men to the gaming-table and pillaging them to their last rupee. Suppose that one of these knaves, thinking himself ill-used in the division of the plunder, should revenge himself by printing an account of the transactions in which he has been concerned. He is prosecuted by the rest of the gang for defamation. He proves that every word in his account is true. But it is admitted that his only motives for publishing it were rancourous hatred and disappointed rapacity. It would surely be most unreasonable in the court to say: — "You have told the public a truth which it greatly concerned the public to know; you have been the saving of many promising youths; you have been the means of ridding society of a dreadful pest; you have done, in short, what it was most desirable that you should do; but as you have done this, not from public spirit, but from dislike of your old associates, we pronounce you guilty of an offence, and condemn you to fine and imprisonment."

It is evident that society cannot spare any portion of the services which it receives. Far from scrutinizing the mo

tives which lead people to render such services, and punishing such services when they proceed from bad motives, all societies are in the habit of offering motives addressed to the selfish passions of bad men for the purpose of inducing those men to do what is beneficial to the mass. We offer pardons and pecuniary rewards to the worst members of the community for the purpose of inducing them to betray their accomplices in guilt. That the quarrels of rogues are the security of honest men is an important truth which has passed into a proverb; and of that security we should to a certain extent deprive honest men if we were to make it an offence in one rogue to speak the truth about another rogue under the influence of passions excited in the course of a quarrel.

We have hitherto argued this point on the supposition that by malice is meant real malice, and not a fictitious, a constructive malice. We have the strongest objections to introducing into the code such a kind of malice — a malice of which a person may be acquitted when it is clear that he has acted from the most deadly personal rancour, and found guilty when those who find him guilty are satisfied that he has acted only from the best feelings — a malice which may be only the technical name for benevolence.

On these grounds, we recommend to the Governor-general in Council that the first exception, as we have drawn it, be suffered to stand part of the code.

The remaining exceptions will not require so long a defence: by clause 471 we allow the public conduct of public functionaries to be discussed, provided that such discussion be conducted in good faith. That the advantages arising from such discussion far more than compensate for the pain which it occasionally gives, will hardly be disputed by any English statesman.

But there are public men who are not public functionaries. Persons who hold no office may yet, in this country, take a very active part in urging or opposing the adoption of measures in which the community is deeply interested. It appears clear to us that every person ought to be allowed to comment, in good faith, on the proceedings of these volun-

teer servants of the public, with the same freedom with which we allow him to comment on the proceedings of the official servants of the public. We have provided for this by clause 472.

By clause 473 we have allowed all persons freely to discuss in good faith the proceedings of courts of law, and the characters of parties, agents, and witnesses as connected with those proceedings. It is almost universally acknowledged that the courts of law ought to be thrown open to the public. But the advantage of throwing them open to the public will be small indeed, if the few who are able to press their way into a court are forbidden to report what has passed there to the vast numbers who were absent, or if those who are allowed to know what has passed are not allowed to comment on what has passed. The only reason that the whole community is not admitted to hear every trial that takes place is that it is physically impossible that they should find room; and, by clause 473, we do our best to counteract the effect of this physical impossibility.

Whether public writers ought to be allowed to publish comments on trials while those trials are still pending is a question which, in the present state of India, it is hardly worth while to discuss. We have not thought it necessary to insert any provision on that subject in the chapter of offences against public justice; and such a provision, even if it were necessary, would evidently not belong to the head of defamation, for the harm done by such comments, as respects public justice, is exactly the same when the comments are laudatory as when they are abusive.

By clause 474 we allow every person to criticise, in good faith, published books, works of art which are publicly exhibited, and other similar performances.

By clause 475 we allow a person under whose authority others have been placed, either by their own consent or by the law, to censure, in good faith, those who are so placed under his authority, as far as regards matter to which that authority relates.

By clause 476 we allow a person to prefer an accusation against another, in good faith, to any person who has lawful authority to restrain or punish the accused.

By clause 477 we have excepted from the definition of defamation private communications which a person makes, in good faith, for the protection of his own interests; and by clause 478 we have excepted private communications which a person makes in good faith for the benefit of others.

It will be observed that in the eight last exceptions, we do not require that an imputation should be true. We require only that it should be made in good faith. For to require in these cases that the imputation should be true, would be to render these exceptions mere nullities. Whether a public functionary is or is not fit for his situation; whether a person who has bestirred himself to get up a petition in favour of a public measure ought to be considered as an enlightened and public-spirited citizen, or as a foolish meddler; whether a person who has been tried for an offence was or was not guilty; which of two witnesses who contradicted each other on a trial ought to be believed; whether a portrait is like; whether a song has been well sung; whether a book is well written; — these are questions about which honest and discerning men may hold opinions diametrically opposite; and to require a man to prove to the satisfaction of a court of law that the opinion which he has expressed on such a question is a right opinion is to prohibit all discussion on such questions. The same may be said of those private communications which we propose to allow. It is plainly desirable that a merchant should disclose to his partners his unfavourable opinion of the honesty of a person with whom the firm has dealings. It is desirable that a father should caution his son against marrying a woman of bad character. But if the merchant is permitted to say to his partners, if the father is permitted to say to his son, only what can be legally proved before a court, it is evident that the permission is worth nothing.

Whether an imputation be or be not made in good faith is a question for the courts of law. The burden of the proof will lie sometimes on the person who has made the imputation, and sometimes on the person on whom the imputation has been thrown. No general rule can be laid down. Yet scarcely any case would arise respecting which

a sensible and impartial judge would feel any doubt. If, for example, a public functionary were to prosecute for defamation a writer who had described him in general terms as incapable, the court would probably require the prosecutor to give some proof of bad faith. If the prosecutor had no such proof to offer, the defendant would be acquitted. If the prosecutor were to prove that the defendant had applied to him for money, had promised to write in his praise if the money were advanced, and had threatened, to abuse him if the money were withheld, the court would, probably, be of opinion that the defendant had not written in good faith, and would convict him.

On the other hand, if the imputation were an imputation of some particular fact, or an imputation which, though general in form, yet implied the truth of some particular fact which, if true, might be proved, the court would probably hold that the burden of proving good faith lay on the defendant. Thus if a person were to publish that a Collector was in the habit of receiving bribes from the zemindars of his district, and were unable to specify a single case, or to give any authority for his assertion, the courts would probably be of opinion that the imputation had not been made in good faith.

Again: if a critic described a writer as a plagiarist, the courts would not consider this as defamation without very strong proof of bad faith. But if it were proved that the critic had, like Lauder, interpolated passages in old books in order to bear out the charge of plagiarism, the court would doubtless be of opinion that he had not criticised in good faith, and would convict him of defamation.

It will be necessary to provide in the code of procedure rules for pleading in cases of defamation, which may give to an innocent man who has been calumniated the means of clearing his character. It will be proper to provide that a defendant who is accused of defamation, and who rests his defence on the truth of the imputation alleged to be defamatory, shall be held strictly to the proof of the substance of the imputation if the imputation be particular, and shall be compelled to descend to particulars in his plea if the impu-

tation be general. It will not be expected that we should here go into any details respecting the law of criminal pleading. It is sufficient here to say, that the importance of framing that part of the law in such a manner as to give full protection to persons whose character has been unjustly aspersed has not escaped our attention.

We may here observe that an imputation which is not defamatory may, under certain circumstances, be punishable on other grounds. Such an imputation may be intended to excite disaffection. If so, though not punishable as defamation, it will be punishable as sedition. An attack made, in good faith, on the public administration of the Governor of a presidency, will in no case be a defamation. But if the author of it designed to inflame the people against the Government, he will be liable to punishment under clause 113.

Again: an imputation which is not defamatory may be intended to excite a mob to violence against an individual. If so, the author of the imputation is punishable under clause 94.

Again: an imputation which is not defamatory may be uttered in the hearing of the person who is the object of it, for the purpose of wantonly and maliciously annoying that person. If so, it is punishable under clause 485. There are many cases in which it is fit that unpleasant truth should be told respecting an individual. But there is no case in which it is desirable that such truth should be told in such a way that the telling of it is a gross personal outrage. A person who has detected, or thinks that he has detected, a dishonest misrepresentation in a book has a right to expose it publicly. But he cannot be allowed to intrude into the presence of the author of the book, and to tell him to his face that he is a liar. A person who knows the mistress of a female school to be a woman of infamous character deserves well of society if he states what he knows. But he cannot be allowed to follow her through the streets calling her by opprobrious names, though he may be able to prove that all those names were merited. A person who brings to notice the malversation of a public

functionary deserves applause. But a person who hangs a public functionary in effigy at that functionary's door, with an opprobrious label, does what cannot be permitted, even though every word on the label, and every imputation which the exhibition was meant to convey, may be perfectly true.

We do not apprehend that the clauses relating to the printers and publishers of defamatory matter require any explanation or defence.

APPENDIX

TO

LORD MACAULAY'S POEMS.

In one of his early essays Mr. Macaulay made a comparison of prize poems to prize sheep, and pronounced both worthless. In view of this well remembered censure, Lord Macaulay could hardly make an exception in his own favor, and it is to this that we attribute the omission in his collected works of the poems we reprint in this appendix. In 1820, he was an unsuccessful competitor for the prize proposed by the University on the subject of "Waterloo." Hannah More, in one of her letters, makes this allusion to it: "I feel for poor Tom's disappointment; but, in a moral point of view, it may have its uses. It may stimulate diligence, and promote humility." [1] Some other references to the poetical and intellectual pursuits of his boyhood and youth occur in the correspondence of that lady with his father, Zachary Macaulay, which are of sufficient interest to be preserved in connection with these early productions. We copy them from a volume of her Letters, edited by the Rev. Mr. Roberts, and published in London in 1860.

Extracts from H. More's Letters.

Barley Wood, *Nov.* 10, 1812.

To Zachary Macaulay.

Pattey intended to-day to have answered Mrs. M.'s kind letter received only last night; but, as I fear her bad eyes and other impediments may prevent her, I snatch up my pen to say how delighted I was with Tom's verses. They are all good; but the stanza beginning with "In pride he rose," etc., is absolutely

[1] An allusion to this occurs in a letter from his father to a friend of H. More's, written in August 1822: "P. S. — When our friend is well enough to enjoy it, I will send her a copy of Tom's poem of *Waterloo* which lost the prize the year before last. When I say enjoy it, I mean that, interested as I know her to be in all he does, she will not be indisposed to read with indulgence even his unsuccessful efforts to celebrate that memorable field."

fine. I showed them to Charles Hoare and the younger Cunningham, who were much pleased with them. They did not seem to have seen before any specimens of his genius.

August, 1813.

. . . . Tom's "Moscow" is as good, and perhaps more faultless than any of his preceding verses. I did not invite him this year out of pure consideration, it being so long a journey quite another way; and I conceived his fond parents would be glad to have him to themselves after this first separation.

Barley Wood, *Jan.* 15, 1814.

I write to chide you for not having sent me Tom's epitaph on Mr. Martyn, which Mr. Preston repeated to me yesterday, and which is excellent. I had a very satisfactory conversation with Mr. P. on his subject. He says he learns *rapidly* and *generally*; that his dispositions are good, and his reverence for religion what he could wish. I trust, by the blessing of God, he will make a solid, as well as a shining character. The prospect is most happy.

Barley Wood, *July* 21, [1815.]

I wanted Tom to write to-day, but as he is likely to be much engaged with a favorite friend, and I shall have no time to-morrow, I scribble a line. This friend is a sensible youth at Woolwich; he is qualifying for the artillery. I overheard a debate between them on the comparative merits of Eugene and Marlborough as generals. The quantity of reading that Tom has poured in, and the quantity of writing he has poured out, is astonishing. It is in vain I have tried to make him subscribe to Sir Henry Savile's notion, that the poets are the best writers next to those who write prose.[1] We have poetry for breakfast, dinner, and supper. He recited *all* "Palestine," while we breakfasted, to our pious friend Mr. Whalley, at my desire, and did it incomparably. I was pleased with his delicacy in one thing. You know the Italian poets, like the French, too much indulge in the profane habit of attesting the Supreme Being; but, without any hint from me, whenever he comes to the Sacred Name, he reverently passes it over. I sometimes fancy I observe a daily progress in the growth of his mental powers. His fine promise of mind expands more and more, and, what is extraordinary, he has as much accuracy in his expression as spirit and vivacity in his imagination. I like, too, that he takes a lively interest in all passing events, and that the *child* is still preserved; I like to see him as boyish as he is studious, and that he is as much amused with making a pat of butter as a poem.

[1] She seems to have been somewhat apprehensive that, as poetry was so much his addiction, it would become, in a manner, his profession, for she observes, in a postscript to one of her letters, "I am afraid Tom will be really a poet." — *Roberts.*

Though loquacious, he is very docile, and I don't remember a single instance in which he has persisted in doing anything when he saw we did not approve it. Several men of sense and learning have been struck with the union of gayety and rationality in his conversation. It was a pretty trait of him yesterday: being invited to dine abroad, he hesitated, then said, "No; I have so few days that I will give them all to you." And he said to-day at dinner, when speaking of his journey, "I know not whether to think on my departure with most pain or pleasure — with most kindness for my friends, or affection for my parents."

Sometimes we converse in ballad-rhymes, sometimes in Johnsonian sesquipedalians; at tea, we condescend to riddles and charades. He rises early, and walks an hour or two before breakfast, generally composing verses. I encourage him to live much in the open air; this, with great exercise on these airy summits, I hope, will invigorate his body; though this frail body is sometimes tired, the spirits are never exhausted. He is, however, not sorry to be sent to bed soon after nine, and seldom stays to our supper.

A new poem is produced less incorrect than its predecessors. It is an excellent satire on radical reform, under the title of "Clodpole and the Quack-doctor." It is really good. I am glad to see that they are thrown by as soon as they have been once read, and he thinks no more of them. He has very quick perceptions of the beautiful and defective in composition. I received your note last night, and Tom his humbling one. I tell him he is incorrigible in the way of tidiness. The other day, talking of what were the symptoms of a gentleman, he said, with some humor, and much *good*-humor, that he had certain infallible marks of one; which were, neatness, love of cleanliness, and delicacy in his person. I know not when I have written so long a scrawl; but I thought you and his good mother would feel an interest in any trifles which related to him. I hope it will please God to prosper his journey, and restore him in safety to you. Let us hear of his arrival.

. . . . . .

July 22, 1819.

To Mr. and Mrs. Huber.

My dear kind Friends, — I take shame to myself for delaying to answer two very kind letters, *male* and *female;* but could you see how absorbed my time has been with conflicting engagements, I know you would forgive me. The chief subject, too, being business, and a kind of business of my own, makes me appear more inexcusable. I shall write by this same post to Mr. Hillhouse. Before I wrote to him I waited for the advice of my wise friend Macaulay, who is here with his wonderful son. . . . .

Tom Macaulay has obtained the Chancellor's (Duke of Gloucester's) prize of a rich gold medal, for a beautiful poem, the subject "Pompeii," which he first wrote, and last week recited before the Chancellor and twelve hundred persons in college, and has gained a high reputation by it. The verses are really worth any poet of any age.

Aug. 24, 1819.

To Zachary Macaulay, Esq.

. . . . I am in debt to dear Tom for much entertainment. "My Royal Edict" really beats Mr. Simeon's. We have been delighted with it. I am afraid he must be a lawyer. What a pity! but really his talents seem irresistibly to lead that way. This is not the only entertainment; he has enabled me to give others. We have had quite an episcopal week — the Bishop of Gloucester the first part of it; the Bishop of St. David's the latter part. The former read Tom's "Pompeii" to a party; all were charmed with it, but none more than the reader, to whom I presented my *worst* copy. The Bishop of St. David's sight being too much impaired, I read the poem to him. He was much pleased, and could hardly credit the age of the writer. Professor Farish, who has also been here, gave us a pleasing account of the *Commencement*, and Tom's share in it, as Lady O. Sparrow has since done. I really wish to write to Tom, but have been so oppressed by company, and other interruptions, that I have not been able. I would not tell *him* all these flattering things; but I could not keep them from his mother.

POMPEII.

A Poem which obtained the Chancellor's Medal at the Cambridge Commencement, July, 1819.

By Thomas Babington Macaulay, of Trinity College.

Oh! land, to Mem'ry and to Freedom dear,
Land of the melting lyre and conqu'ring spear,
Land of the vine-clad hill, the fragrant grove,
Of arts and arms, of Genius and of Love,
Hear, fairest Italy. Tho' now no more
Thy glitt'ring eagles awe th' Atlantic shore,
Nor at thy feet the gorgeous Orient flings
The blood-bought treasures of her tawny Kings,
Tho' vanish'd all that form'd thine old renown,
The laurel garland, and the jewell'd crown,

Th' avenging poniard, the victorious sword,
Which rear'd thine empire, or thy rights restor'd,
Yet still the constant Muses haunt thy shore,
And love to linger where they dwelt of yore.
If e'er of old they deign'd, with fav'ring smile,
To tread the sea-girt shores of Albion's isle,
To smooth with classic arts our rugged tongue,
And warm with classic glow the British song,
Oh! bid them snatch their silent harps which wave
On the lone oak that shades thy Maro's grave,[1]
And sweep with magic hand the slumb'ring strings,
To fire the poet. — For thy clime he sings,
Thy scenes of gay delight and wild despair,
Thy vary'd forms of awful and of fair.

How rich that climate's sweets, how wild its storms,
What charms array it, and what rage deforms,
Well have thy mould'ring walls, Pompeii, known,
Deck'd in those charms, and by that rage o'erthrown.
Sad City, gaily dawn'd thy latest day,
And pour'd its radiance on a scene as gay.
The leaves scarce rustled in the sighing breeze;
In azure dimples curl'd the sparkling seas,
And, as the golden tide of light they quaff'd,
Campania's sunny meads and vineyards laugh'd,
While gleam'd each lichen'd oak and giant pine,
On the far sides of swarthy Apennine.

Then mirth and music thro' Pompeii rung;
Then verdant wreaths on all her portals hung;
Her sons with solemn rite and jocund lay
Hail'd the glad splendours of that festal day.
With fillets bound the hoary priests advance,
And rosy virgins braid the choral dance.
The rugged warrior here unbends awhile
His iron front, and deigns a transient smile:
There, frantic with delight, the ruddy boy
Scarce treads on earth, and bounds and laughs with joy.
From ev'ry crowded altar perfumes rise
In billowy clouds of fragrance to the skies.
The milk-white monarch of the herd they lead,

[1] See Eustace's description of the *Tomb of Virgil*, on the Neapolitan coast.

With gilded horns, at yonder shrine to bleed;
And while the victim crops the broider'd plain,
And frisks and gambols tow'rds the destin'd fane,
They little deem that like himself they stray
To death, unconscious, o'er a flow'ry way,
Heedless, like him, th' impending stroke await,
And sport and wanton on the brink of fate.
What vails it that where yonder heights aspire,
With ashes pil'd, and scath'd with rills of fire,
Gigantic phantoms dimly seem'd to glide,[1]
In misty files, along the mountain's side,
To view with threat'ning scowl your fated lands,
And tow'rd your city point their shadowy hands?
In vain celestial omens prompted fear,
And nature's signals spoke the ruin near.
In vain thro' many a night ye view'd from far
The meteor flag of elemental war
Unroll its blazing folds from yonder height,
In fearful sign of earth's intestine fight.
In vain Vesuvius groan'd with wrath supprest,
And mutter'd thunder in his burning breast.
Long since the Eagle from that flaming peak
Hath soar'd with screams a safer nest to seek.
Aw'd by th' infernal beacon's fitful glare,
The howling fox hath left his wonted lair;
Nor dares the browzing goat in vent'rous leap
To spring, as erst, from dizzy steep to steep.—
Man only mocks the peril. Man alone
Defies the sulph'rous flame, the warning groan.
While instinct, humbler guardian, wakes and saves,
Proud reason sleeps, nor knows the doom it braves.
But see, the op'ning theatre invites
The fated myriads to its gay delights.
In, in, they swarm, tumultuous as the roar
Of foaming breakers on a rocky shore.
Th' enraptur'd throng in breathless transport views
The gorgeous temple of the Tragic Muse.

[1] Dio Cassius relates that figures of gigantic size appeared, for some time previous to the destruction of Pompeii, on the summits of Vesuvius. This appearance was probably occasioned by the fantastic forms which the smoke from the crater of the volcano assumed.

There, while her wand in shadowy pomp arrays
Ideal scenes, and forms of other days,
Fair as the hopes of youth, a radiant band,
The sister arts around her footstool stand,
To deck their Queen, and lend a milder grace
To the stern beauty of that awful face.
Far, far, around the ravish'd eye surveys
The sculptur'd forms of Gods and Heroes blaze.
Above, the echoing roofs the peal prolong
Of lofty converse, or melodious song,
While, as the tones of passion sink or swell,
Admiring thousands own the moral spell,
Melt with the melting strains of fancy'd woe,
With terror sicken, or with transport glow.

Oh! for a voice like that which peal'd of old
Thro' Salem's cedar courts and shrines of gold,
And in wild accents round the trembling dome
Proclaim'd the havoc of avenging Rome,
While ev'ry palmy arch and sculptur'd tow'r
Shook with the footsteps of the parting pow'r.
Such voice might check your tears, which idly stream
For the vain phantoms of the poet's dream,
Might bid those terrors rise, those sorrows flow,
For other perils, and for nearer woe.

The hour is come. Ev'n now the sulph'rous cloud
Involves the city in its fun'ral shroud,
And far along Campania's azure sky
Expands its dark and boundless canopy.
The Sun, tho' thron'd on heav'n's meridian height,
Burns red and rayless thro' that sickly night.
Each bosom felt at once the shudd'ring thrill.
At once the music stopp'd. The song was still.
None in that cloud's portentous shade might trace
The fearful changes of another's face:
But thro' that horrid stillness each could hear
His neighbor's throbbing heart beat high with fear.

A moment's pause succeeds. Then wildly rise
Grief's sobbing plaints and terror's frantic cries.
The gates recoil; and tow'rds the narrow pass
In wild confusion rolls the living mass,
Death, — when thy shadowy sceptre waves away

From his sad couch the pris'ner of decay,
Tho' friendship view the close with glist'ning eye,
And love's fond lips imbibe the parting sigh,
By torture rack'd, by kindness sooth'd in vain,
The soul still clings to being and to pain,
But when have wilder terrors cloth'd thy brow,
Or keener torments edg'd thy dart than now,
When with thy regal horrors vainly strove
The laws of nature, and the power of Love?
On mothers babes in vain for mercy call,
Beneath the feet of brothers, brothers fall.
Behold the dying wretch in vain upraise,
Tow'rds yonder well-known face the accusing gaze,
See trampl'd to the earth th' expiring maid
Clings round her lover's feet, and shrieks for aid.
Vain is th' imploring glance, the frenzy'd cry;
All, all is fear; — To succour is to die. —
Saw ye how wild, how red, how broad a light
Burst on the darkness of that mid-day night,
As fierce Vesuvius scatter'd o'er the vale
His drifted flames and sheets of burning hail,
Shook hell's wan light'nings from his blazing cone,
And gilded heav'n with meteors not its own?
The morn all blushing rose; but sought in vain
The snowy villas and the flow'ry plain,
The purple hills with marshall'd vineyards gay,
The domes that sparkled in the sunny ray.
Where art or nature late had deck'd the scene
With blazing marble or with spangled green,
There, streak'd by many a fiery torrent's bed,
A boundless waste of hoary ashes spread.
Along that dreary waste where lately rung
The festal lay which smiling virgins sung,
Where rapture echoed from the warbling lute,
And the gay dance resounded, all is mute. —
Mute! — Is it Fancy shapes that wailing sound
Which faintly murmurs from the blasted ground,
Or live there still, who, breathing in the tomb,
Curse the dark refuge which delays their doom,
In massive vaults, on which th' incumbent plain
And ruin'd city heap their weight in vain?

Oh! who may sing that hour of mortal strife,
When Nature calls on Death, yet clings to life?
Who paint the wretch that draws sepulchral breath,
A living pris'ner in the house of Death?
Pale as the corpse which loads the fun'ral pile,
With face convuls'd that writhes a ghastly smile,
Behold him speechless move with hurry'd pace,
Incessant, round his dungeon's caverned space,
Now shriek in terror, and now groan in pain,
Gnaw his white lips, and strike his burning brain,
Till Fear o'erstrain'd in stupor dies away,
And Madness wrests her victim from dismay.
His arms sink down; his wild and stony eye
Glares without sight on blackest vacancy.
He feels not, sees not; wrapp'd in senseless trance
His soul is still and listless as his glance.
One cheerless blank, one rayless mist is there,
Thoughts, senses, passions, live not with despair.
Haste, Famine, haste, to urge the destin'd close,
And lull the horrid scene to stern repose.
Yet ere, dire Fiend, thy ling'ring tortures cease,
And all be hush'd in still sepulchral peace,
Those caves shall wilder, darker deeds behold
Than e'er the voice of song or fable told,
Whate'er dismay may prompt, or madness dare,
Feasts of the grave, and banquets of despair. —
Hide, hide, the scene; and o'er the blasting sight
Fling the dark veil of ages and of night.
Go, seek Pompeii now: — with pensive tread
Roam thro' the silent city of the dead.
Explore each spot, where still, in ruin grand,
Her shapeless piles and tott'ring columns stand,
Where the pale ivy's clasping wreaths o'ershade
The ruin'd temple's moss-clad colonnade,
Or violets on the hearth's cold marble wave,
And muse in silence on a people's grave.
Fear not. — No sign of death thine eyes shall scare,
No, all is beauty, verdure, fragrance there.
A gentle slope includes the fatal ground
With od'rous shrubs and tufted myrtles crown'd,
Beneath, o'ergrown with grass, or wreath'd with flow'rs,

Lie tombs and temples, columns, baths, and towers.
As if in mock'ry, Nature seems to dress
In all her charms the beauteous wilderness,
And bids her gayest flow'rets twine and bloom
In sweet profusion o'er a city's tomb.
With roses here she decks th' untrodden path,
With lilies fringes there the stately bath,
Th' Acanthus' spreading foliage here she weaves [1]
Round the gay capital which mocks its leaves,
There hangs the sides of ev'ry mould'ring room
With tap'stry from her own fantastic loom,
Wall-flow'rs and weeds, whose glowing hues supply
With simple grace the purple's Tyrian dye.
The ruin'd city sleeps in fragrant shade,
Like the pale corpse of some Athenian maid,[2]
Whose marble arms, cold brows, and snowy neck
The fairest flow'rs of fairest climates deck,
Meet types of her whose form their wreaths array,
Of radiant beauty, and of swift decay.

Advance, and wander on thro' crumbling halls,
Thro' prostrate gates, and ivy'd pedestals,
Arches, whose echoes now no chariots rouse,
Tombs, on whose summits goats undaunted browze.
See, where yon ruin'd wall on earth reclines,
Thro' weeds and moss the half-seen painting shines,
Still vivid 'midst the dewy cowslips glows,
Or blends its colours with the blushing rose.

Thou lovely, ghastly scene of fair decay,
In beauty awful, and 'midst horrors gay,
Renown more wide, more bright shall gild thy name,
Than thy wild charms or fearful doom could claim.

Immortal spirits, in whose deathless song
Latium and Athens yet their reign prolong,
And from their thrones of fame and empire hurl'd,
Still sway the sceptre of the mental world,
You, in whose breasts the flames of Pindus beam'd,

[1] The capital of the Corinthian pillar is carved, as is well known, in imitation of the Acanthus. Mons. de Chateaubriand, as I have found since this poem was written, has employed the same image in his Travels.

[2] It is the custom of the modern Greeks to adorn corpses profusely with flowers.

Whose copious lips with rich persuasion stream'd,
Whose minds unravell'd nature's mystic plan,
Or trac'd the mazy labyrinth of man;
Bend, glorious spirits, from your blissful bow'rs,
And broider'd couches of unfading flow'rs,
While round your locks th' Elysian garlands blow,
With sweeter odours, and with brighter glow.
Once more, immortal shades, atoning Fame
Repairs the honours of each glorious name.
Behold Pompeii's op'ning vaults restore
The long-lost treasures of your ancient lore,
The vestal radiance of poetic fire,
The stately buskin, and the tuneful lyre,
The wand of eloquence, whose magic sway
The sceptres and the swords of earth obey,
And ev'ry mighty spell, whose strong control
Could nerve or melt, could fire or soothe the soul.
And thou, sad city, raise thy drooping head,
And share the honours of the glorious dead.
Had Fate repriev'd thee till the frozen North
Pour'd in wild swarms its hoarded millions forth,
Till blazing cities mark'd where Albion trod,
Or Europe quak'd beneath *the scourge of* GOD,[1]
No lasting wreath had grac'd thy fun'ral pall,
No Fame redeem'd the horrors of thy fall.
Now shall thy deathless mem'ry live entwin'd
With all that conquers, rules, or charms the mind,
Each lofty thought of Poet or of Sage,
Each grace of Virgil's lyre, or Tully's page.
Like their's whose Genius consecrates thy tomb,
Thy fame shall snatch from time a greener bloom,
Shall spread where'er the Muse has rear'd her throne,
And live renown'd in accents yet unknown;
Earth's utmost bounds shall join the glad acclaim,
And distant Camus bless Pompeii's name.

[1] The well-known name of Attila.

EVENING.

A Poem which obtained the Chancellor's Medal at the Cambridge Commencement, July, 1821.

By Thomas Babington Macaulay, Scholar of Trinity College.

Fair hour of Poesy's and Passion's dreams,
Of sweetest breezes, and of purest beams,
Rich clouds, and twinkling stars, and balmy dews,
Come, loveliest theme, and be thyself my Muse;
Breathe o'er the lay which fondly tells thy praise
The splendour of thine own voluptuous rays,
The colours of thy bright and varying skies,
The music of thine airy melodies. —
For I have loved thee, Evening. — I have felt
My soul beneath thy gentle influence melt,
Which lends to every scene and every tone
A mild and pensive softness all its own.
The shadows lengthen'd by the sloping light,
The gleam which lingers on the purple height,
The gale that whispers through the cool arcade
Form'd by the dark-green chesnut's massy shade,
The lake which burns one sheet of yellow fire,
The knell resounding from the distant spire,
The echoes which the circling hills prolong,
The raptures of the wild bird's piercing song,
Ev'n the rich music of the mellow horn
Which swells so jocund on the breeze of morn,
The blithest sounds, the gayest forms receive
A tinge of sadness from the spells of Eve.
The spirit of sweet melancholy floats
O'er all her scenes, and thrills in all her notes,
Breathes in the fragrant languor of her sigh,
Weeps in her dews, and blushes in her sky.
How sweet it is, at that enchanting hour,
When earth is fresh with April's sunny shower,
To wander through some green and quiet lane,
O'erhung by briars and wild flowers moist with rain;
And view the Sun, descending to his rest,
Lead his bright triumph down the gorgeous West.
Amidst the glories of that radiant sky

Dun wreaths of cloud with crimson dappled lie;
Like the dark curls, with roses crown'd, which play
Around the brow of some fair queen of May;
And dusky streaks on which the sunbeams throw
A lurid mellowness, a sullen glow,
Whose inky masses seem to fancy's sight
Blue hilly isles amidst a sea of light,
Rugged with many a crag's fantastic shape,
And swelling ridge, and far-projecting cape. —
Dyed by the sinking rays the heavens assume
A brilliant tint of deep and rosy bloom,
The lovely hectic of declining day,
Height'ning its charms and marking its decay:
From hue to hue the varying splendours fade
And melt into a pale and saffron shade.

At length the cottage windows cease to blaze,
And a soft veil of dim and silver haze
Floats o'er the watery meadows. All is still
Save the faint tinkling of the pebbled rill,
Or beetle's drowsy hum, or bat's shrill wail,
Or thrilling chaunt of love-lorn nightingale.
The stream hath darken'd to a purple hue;
The turf is fresh with cool and fragrant dew. —
Who loves not then with upward-gazing eye
To pore into the wide abyss of sky,
So still, so vast, so colorless, so pure,
Clear without light, and without gloom obscure;
And here and there to catch some lonely star
Twinkling in humid lustre from afar;
Or flashing in the West, fair Eve, to see
The planet dear to Venus and to thee.

Oh! thou whose myrtle grove and od'rous shrine
An earlier age adored with rites divine,
When infant genius tuned the Grecian lyre
To hail thee Queen of beauty and desire;
Oh! nurse of softest hopes and fondest fears,
Of melancholy smiles and rapt'rous tears,
Thou phantom which some rich voluptuous mind
From all its wealth of glowing thoughts combined,
Thou sweet embodied wish, thou loveliest dream
That e'er in moonlight sleep, by lilied stream,

Bright with all mem'ry's and all fancy's dyes,
Floated before enamour'd Poet's eyes ;
How justly ancient lore assign'd thy name
To yon fair emblem of thy mystic flame,
Love's consecrated lamp, which lights from high
The vespers of his fond idolatry !
How oft, fair star, have bards been wont to twine,
In flowery raptures, beauty's praise with thine,
And loveliest eyes gazed fondly on a ray
As bright, as dewy, and as soft as they !
But see the broad and yellow Moon emerge
Upon the dim horizon's eastern verge
In cold and ghastly beauty. Tree and height,
River and plain, are starting into light. —
How beautiful its gleams of silver fall
On the bright lattice and the flower-clad wall
Of snowy cottage, or the Gothic tower
Of some grey church which tufted yews embower !
How fair is yon meek wand'rer, as she strays
Through filmy shades which scarce conceal her blaze,
Or measures with her cold and pensive eye,
From some clear island of cerulean sky,
The billowy ocean of pale clouds around
O'er which her lone and nightly course is bound !
What marvel then if Man, while heaven denied
A hope to cheer him, and a law to guide,
Thou pure and radiant orb, adored in thee,
The source of radiance and of purity ?
Oft, when along the sweet Campanian bay
The latest flush of sunset died away,
Th' Italian maid with reverence saw thee shine
Silvering the purple peaks of Apennine ;
And kneeling on the fragrant turf where played,
In quivering fretwork, chequered light and shade,
Beneath some vine-clad elm's fantastic boughs,
Pour'd forth to thee her blessings and her vows. —
No longer from thy hundred altars rise
The voice of prayer, the smoke of sacrifice.
Cithæron owns no more her Cynthia's reign,
And jackals howl above th' Ephesian fane.
Yet Contemplation still delights to gaze

On the wan lustre of thy frozen rays,
And pay, at that serene and solemn hour,
A juster homage to a holier Power.

Less gay is Evening when December's breeze
Sweeps through the roaring forest's leafless trees
In dreary cadence; when th' undazzled eye
Beholds, athwart the grey and frosty sky,
Stripp'd of his glittering robes and golden crown,
The blood-red Sun without a ray sink down.
Yet then 'tis sweet to stray in pensive mood
Through the dim twilight of the naked wood,
Where groaning branches yield a mournful sound,
And wither'd leaves in eddies flit around.
'Tis sweet to seek the flickering light and gloom
Of the neat fireside and the curtain'd room.
'Tis sweet to listen to the driving rain,
The bellowing chimney, and the rattling pane;
And sweet it is, at every gust, to raise
The glowing embers to a brighter blaze,
And mark their quivering lustre glance the while
On eyes that sparkle, and on cheeks that smile;
On furrow'd brows which now forget to lower,
Charm'd by the sorcery of that tranquil hour,
And rosy infant lips which fondly press
To snatch the willing yet delayed caress.

Alas! — no more with England's ancient rites
Blithe Christmas[1] leads along the wintry nights,
As when of old his purple visage bluff
And pointed cap, and rustling length of ruff
Came forth, with minstrel's song and jester's tale,
And boar's head garlanded, and amber ale,
And masquers[2] decked with bugle horn and bow,
And hissing crabs[3] and amorous misletoe;
While the bright hearth, in joyous concert, roar'd
With blazing logs; and o'er the groaning board
Of glossy oak the prickly holly spread

[1] This costume of Christmas is taken from the masque in which Ben Jonson has personified the festival.

[2] Robin Hood and his followers were principal characters in the old Masquerades of Christmas.

[3] "When roasted crabs hiss in the bowl." — *Shakespeare.*

Its varnish'd foliage and its berries red.
Yet joys, perchance as sweet, remain to cheer
The sullen evenings of the closing year ;
The fire-side circle at the close of day ;
The licensed school-boy's Saturnalian sway ;
The listed combat of the warrior train
In order marshalled on the chequer'd plain,
When these in sable, those in argent mail
The Chief, the hostile Chief alone assail.
To guard their King with brave devotion fly
His serried foot and bounding chivalry ;
His mitred prelates burn with martial zeal;
His princess grasps her Amazonian steel. —
Hard is his heart who views with cynic eyes
Those bloodless fights, those tearless victories ;
But his far harder, who can coldly turn
From the sweet rites of that enchanted urn
Whence some terrestrial Hebe deals around
The social cups with fragrant nectar crown'd.

Thine, gentle Evening, is each power that binds,
In mystic harmony, united minds,
And lulls to soft repose in verdant bowers,
Amidst a glowing paradise of flowers,
Of sparkling streams and spicy gales of bliss,
The way-worn pilgrims of a world like this.
Thine is the tenderness whose blameless joys
No guilt pollutes and no remorse alloys,
The rest which soothes the tortured spirit's strife,
The fairy Graces of domestic life.
Thine is the prayer lisp'd forth, with downcast eye
And lifted hands, by kneeling infancy,
And thoughts of solemn awe and grateful love
Which link mortality to realms above.

Nor less, enchantress, to thy reign belong
The mines of science and the flowers of song,
And every glorious deed and thought sublime,
By virtue, or by Genius, snatch'd from time.
I love to trim the taper o'er the page
Where lives the mind of Poet or of Sage.
Then, as that beauteous and imperial Fay[1]

[1] The Fairy Morgana.

Renown'd in many a wild Ausonian lay
Crowds with fair shapes, and paints with glorious dyes
The sparkling azure of Sicilian skies,
And hangs her pillar'd domes and waving shades,
Her terraced streets and marble colonnades,
O'er the bright waters of that sapphire sea
Which laves thy sunny realms, Parthenope;
So o'er the soul the Muse's spells diffuse
The pomp of graceful forms and lovely hues:
Things uncreated, men unborn appear;
The past is present, and the distant near.
In long array on Fancy's wond'ring eyes
Visions of beauty or of terror rise;
The cauldron [1] mantling with the drugs of hell,
The suppliant charms of purest [2] Isabel,
Or that dire [3] huntsman whom with shudd'ring awe
The love-sick wand'rer of Ravenna saw.
Now, led by Milton's mighty hand, she roves
Through the dark verdure of primeval groves,
By streams that from their crystal bosoms fling
The gay profusion of unfading spring:
O'er beds of flow'rs, more fair, more frail than they,
She views a form of peerless beauty stray,
Tend the gay fragrance of the nuptial shade,
And twine her locks with many a dewy braid.
The rose-crown'd [4] priest of love and wine she sees
Lead his quaint pageant through the moonlight trees.
She roams through proud Duessa's gilded hall; [5]
She melts in anguish o'er Clarissa's pall.
The fabled East pours forth its witching dreams,
Sweet as its gales, and gorgeous as its beams.
The Gothic Muse recounts in northern rhyme
The sterner legends of a sterner clime,
Her tales of trophied lists and rescued maids,
Of haunted fountains and enchanted blades.

To graver themes shall wit and mirth succeed,
And urge the ling'ring hours to fleeter speed:
Again Parolles shall seek his luckless drum,

1 See *Macbeth*.
2 See *Measure for Measure*.
3 See *Theodore and Honoria*.
4 *Comus*.
5 Spenser's *Fairy Queen*, Book I. Canto iv.

And Falstaff jest, and Epicene [1] be dumb,
The city's [2] champion wield his flaming mace,
And dear Sir Roger lead the joyous chase.
Come ever thus, sweet Eve, and let thy smile
The sorrows and the toils of day beguile ;
And as thy starlight dew and cooling breeze
Revive the swarthy turf and drooping trees,
Paint every sun-burnt flower with richer bloom,
And bathe the plains in moisture and perfume ;
Thus let thy moral charms, with influence kind,
Repair the wither'd verdure of the mind ;
And thus to fresher life, and brighter hue
Each languid hope, and faded joy renew.*

[1] See Ben Jonson's *Silent Woman.*
[2] See Fletcher's *Knight of the Burning Pestle.*

* Editorial Note.

I am informed by the valued friend of Hannah More who has supplied me with some other facts, that the poet recited this *propriâ personâ* at Barley Wood. "We were sitting," says this lady, "upon that occasion, in Mrs. H. More's room up-stairs, and the poet lounged over a chest of drawers, in an ungraceful position, and read it aloud to the company ;" but she observes that he did not do much justice to his composition by his method of delivery. — *Roberts.*

INDEX.

ANATOMY

ANATOMY Bill, speech on the, i. 112.
Armada, the, ii. 289.
Arnault, A. V., Translation from, ii. 258.

BATTLE of the Lake Regillus, ii. 171.
Bentinck, Lord William, inscription on his statue at Calcutta, ii. 293.
Buccaneer, the last, ii. 295.

CAPYS, prophecy of, ii. 221.
Cavalier's, the, March to London, ii. 252.
China, speech on the war with, i. 257.
Church of Ireland, speech on the, i. 451.
Clergyman, the Country, his Trip to Cambridge, ii. 278.
Copyright, speeches respecting the law of, i. 279, 299.
Corn law, speech on the, i. 499.

DIES Iræ, ii. 260.
Dissenters' Chapels Bill, speech on the, i. 385.

EDINBURGH election in 1839, speech at the, i. 206.
Education, speech on, ii. 42.
Epitaph, on Henry Martyn, ii. 239.
—— on Lord William Bentinck, ii. 293.
—— on Sir Benjamin Heath Malkin, ii. 294.
—— on a Jacobite, ii. 296.
—— on Lord Metcalfe, ii. 297.

GALL, Monk of St., Paraphrase of a Passage in the Chronicle of the, ii. 302.

MELBOURNE

Glasgow College, inaugural speech at, ii. 72.
Government, the end of, is the happiness of the people, i. 32.

HORATIUS, ii. 149.
House of Commons, speech on the exclusion of the judges from the, ii. 104.

INDIA, speech on the government of, i. 159.
Indian Penal Code, Report and Notes on, ii. 311.
Ireland. Speech on the Repeal of the Union with Ireland, i. 125; on the State of Ireland, i. 349; on the Church of Ireland, i. 451.
Ivry, ii. 244.

JEWS, speech on the Civil Disabilities of the, i. 144.
Judges, speech on their exclusion from the House of Commons, ii. 104.

LAYS of Ancient Rome, ii. 125.
Libel, absurd severity of the law of, i. 86.
Lines written on the night of the 30th of July, 1847, at the close of an unsuccessful contest for Edinburgh, ii. 304.
Literature, British, speech on, ii. 31.

MALKIN Sir Benjamin Heath, epitaph on, ii. 294.
Martyn, Henry, lines to, ii. 239.
Maynooth. Speech on the Maynooth College Bill, i. 432.
Melbourne, Lord, speech on the mo-

MONCONTOUR

tion as to want of confidence in the ministry of, i. 230.
Moncontour, the battle of, ii. 248.

NASEBY, Battle of, ii. 249.

PARAPHRASE of a Passage in the Chronicle of the Monk of St. Gall, ii. 302.
Parliamentary reform, speeches on, i. 19, 40, 59, 78, 92, 115.
Peel, Sir Robert, remarks on his past conduct and present position, i. 242.
People's Charter, the speech on, i. 310.
Pitt, William, lines to his memory, ii. 240.
Plautus, translation from his Rudens, ii. 298.

RADICAL War Song, A, ii. 241.
Repeal of the Union with Ireland, speech on the, i. 125.

VIRGINIA

Rome, Lays of Ancient, ii. 125.
Rosamond, ii. 308.

SERMON in a Churchyard, ii. 255.
Somnauth, gates of, speech on the, i. 326.
Song, ii. 282.
Songs of the Civil War, ii. 249.

TEN Hours Bill, speech on the, ii. 7.
Tirzah and Ahirad, Marriage of, ii. 262

UNIVERSAL Suffrage, i. 21.
Universities, Scotch, theological tests in, speech on, i. 477.

VALENTINE, ii. 300.
Vienna, the Deliverance of, ii 283.
Virginia, ii. 201.

THE END